



Environmental Consulting Services

Request for Proposal (RFP)

FOR TOWN OF CANMORE

REFERENCE NUMBER: 20230428

CLOSING DATE: August 18, 2023

CLOSING TIME: 14:00:00 Mountain Time Zone

NOTE: RESPONSES WILL NOT BE OPENED PUBLICLY

Date Issued: July 27, 2023

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1.0 INSTRUCTIONS FOR RESPONDING TO THIS REQUEST FOR PROPOSALS

- 1.1.1 Proponents shall submit their proposal to the Town of Canmore by email to the attention of Caitlin Van Gaal, Supervisor of Environment and Sustainability at caitlin.vangaal@canmore.ca.

Closing Date and Time: Proposals must be received not later than 14:00:00 hours Mountain Time Zone (Canmore local time) on August 18, 2023.

- 1.1.2 Electronic RFP responses are to be in PDF (.pdf) format only and all components shall be formatted and combined into one file that is inserted into the email submission.

- 1.1.3 RFP Contact Person:

For clarification or additional information, Proponents shall **only** contact the person listed below.

Caitlin Van Gaal, Supervisor of Environment and Sustainability

Email – caitlin.vangaal@canmore.ca

See Section 2.0, item 2.6 below for additional information for Questions and Clarifications.

- 1.1.4 The Town of Canmore may in its sole discretion disqualify responses that do not meet the formatting and other criteria set out in Section 4.0 of this RFP.

- 1.1.5 Responses must be in English.

- 1.1.6 Pricing submissions shall be stated in Canadian dollars with Goods and Services Tax (GST) extra.

- 1.1.7 Each Proponent is solely responsible for ensuring that its response is received at the specified address (physical address or email address) by the specified closing date and time. Strict adherence to the closing date and time will be maintained, and unless the deadline date is extended by issue of Addendum, all responses received after this time and date will be returned unopened.

- 1.1.8 This Request for Proposals is not a tender and the Town of Canmore does not intend for the laws of competitive bidding to apply.

END OF SECTION 1.0

2.0 GENERAL CONDITIONS OF RESPONSE

2.1 PURPOSE OF THE REQUEST FOR PROPOSAL (RFP)

The Town of Canmore is issuing this Request for Proposal (RFP) to select a consultant to provide Environmental Services, including: third-party review of various Environment Site/Risk Assessment reports, afterhours environmental emergency call out services at various sites in Canmore, and other environmental work as identified.

The Town of Canmore reserves the right to modify the terms or cancel the RFP process at any time.

2.2 SUBMISSION OF RESPONSE TO THE RFP

2.2.1 By submitting a response to this RFP, each Proponent accepts its terms and conditions. In addition, by submitting its response each Proponent waives all claims, rights, demands and the benefit of any provisions of any statute, rule of law or regulation that might adversely affect the rights of the Town of Canmore under this RFP.

2.2.2 Each Proponent shall make full disclosure of any actual or potential conflict of interest arising from any existing business or personal relationships with any of the following (each, a “Conflicted Person”): (i) any employee of the Town of Canmore; (ii) any member of the Town of Canmore Town Council (councillor); (iii) any board or committee member; (iv) any family member of any such employee, councillor or board/committee member; or (v) any business entity controlled by or otherwise not at arm’s length to any one or more of any such employee, councillor, board/committee member or family member.

Without limiting the foregoing, details should be provided of any direct or indirect pecuniary interest of any Conflicted Person in the supply of the services contemplated by this RFP.

Disclosure of any such actual or potential conflict of interest shall be made in writing with the Proponent’s response.

2.2.3 This RFP and any contracts subsequently entered into as a result hereof shall be governed by the laws of the Province of Alberta and the laws of Canada applicable therein. The courts of the Province of Alberta shall have exclusive jurisdiction over this RFP and any contracts entered into as a result hereof.

2.2.4 Proposal documents must be completed in accordance with the requirements of the Request for Proposal documents and no amendment or change to proposals will be accepted after the closing date and time.

2.2.5 All documents submitted by Proponents in response to this RFP are to remain the property of the Town of Canmore.

2.2.6 Proposals shall be irrevocable for sixty (60) days following the closing of the RFP and the proposals shall be retained by the Town of Canmore.

2.2.7 Proposals shall be signed by an authorized signatory of the Proponent using the Signature and Waiver Sheet in Section 5.0. If the Proponent is an incorporated company, the corporate seal of the Proponent shall be affixed or a certified true copy of a resolution of the corporation naming the person(s) in question as authorized to sign agreements on behalf of the corporation shall be attached to the proposal.

Proponents who are sole proprietorships or partners shall sign their RFP response in such a way as to irrevocably bind the Proponent in an authorized manner.

2.3 NO COMMITMENT

- 2.3.1** No commitment on the part of the Town of Canmore shall exist under this RFP unless and until the Proponent receives official written confirmation from the Town of Canmore that it has been selected to complete the work.

2.4 LIMITATION OF LIABILITY

- 2.4.1** The Town of Canmore will have no liability to any person or entity for any damages, including, without limitation, direct, indirect, special or punitive damages, arising out of or otherwise relating to this RFP, the Proponent's participation in this RFP process or the Town of Canmore's acts or omissions in connection with the conduct of this RFP process. This limitation applies to all possible claims by a Proponent, whether arising in contract, tort, equity, or otherwise, including, without limitation, any claim for a breach by the Town of Canmore of a duty of fairness or relating to a failure by the Town of Canmore to comply with the terms set forth in this RFP.

2.5 ACCEPTANCE OR REJECTION

- 2.5.1** The Town of Canmore reserves the right to reject any or all responses. Without limiting the generality of the foregoing, the Town of Canmore may reject any response which it deems:

- a) is incomplete, obscure, irregular, unrealistic or non-compliant;
- b) has erasures, ambiguities, inconsistency or corrections; or
- c) fails to complete, or provide any information required by, any provision of this RFP.

Further, a response may be rejected on the basis of the Town of Canmore's understanding of the Proponent's past record of work, its general reputation, its financial capabilities, the completion schedule or a failure to comply with any applicable law.

The purpose of the Town of Canmore is to obtain the most suitable responses to the Project and to further the interests of the Town of Canmore and what it wishes to accomplish in carrying out the Project. Therefore, the Town of Canmore has the right to waive any irregularity or insufficiency or non-compliance in any response submitted and to accept the response or responses which it deems most favourable to its interests or to reject all responses and cancel the RFP.

In addition to any rights identified elsewhere in this RFP, the Town of Canmore reserves the right to:

- a) reject any and all responses;
- b) add, delete or change the terms of this RFP at any time prior to the specified closing date and time;
- c) during the evaluation period, seek clarification of any Proponent's response, including consequential amendments, or any additional information from any Proponent;
- d) accept or reject, in whole or in part, any response without giving any reason;
- e) have any documents submitted by the Proponent reviewed and evaluated by any party, including independent Consultants;
- f) cancel the RFP process without penalty at any time for any reason; and
- g) negotiate and enter into an agreement with any Proponent notwithstanding any non-compliance by the Proponent's response with any requirement of this RFP.

The Town of Canmore is the sole and final judge with respect to the selection of any Successful Proponent as a result of this RFP process.

All Proponents submitting a response to this RFP will be advised of the results of the RFP process by email or regular mail. Please allow at least six weeks for responses to be evaluated by the Town of Canmore.

2.6 QUESTIONS AND CLARIFICATIONS

- 2.6.1** Procedural or technical questions shall be submitted in writing and should include references to a specific section and item number.
- 2.6.2** Dependent upon their nature, comments or answers will be returned via email or through an addendum should the information be applicable to all Proponents.
- 2.6.3** Amendments to this RFP will be valid and effective only if confirmed by written addenda. Addenda may be issued during the proposal response period. All addenda become part of the agreement and receipt must be confirmed in the Proponents proposal submission.
- 2.6.4** Any addenda documents will be issued by the same method that this RFP was issued.
- 2.6.5** It is the Proponent's responsibility to clarify the interpretation of any item of this RFP a minimum of 72 hours prior to the stated closing date and time by contacting the Town of Canmore's designate (as above).

2.7 DISCREPANCIES IN NUMBERS

- 2.7.1** In the event of a numerical discrepancy or error in a Proposal, the written number will prevail.
- 2.7.2** In the event of pricing extension errors, the unit price will apply.

2.8 CONFIDENTIALITY AND FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

- 2.8.1** All information including, without limitation, any technology of a proprietary or novel nature which is disclosed to a Proponent by the Town of Canmore or a third party as a representative of the Town of Canmore (which information, in addition to the confidentiality requirements hereunder, will be kept confidential by the Proponent in accordance with the terms of its disclosure by such third party) or which is otherwise obtained by the Proponent in connection with this RFP process, other than that which is common knowledge or within the public domain, is the confidential property of the Town of Canmore and must not be disclosed by the Proponent, except to duly authorized representatives of the Town of Canmore. Such confidential information or property is not to be employed other than in connection with responding to this RFP unless otherwise duly authorized by the Town of Canmore in writing. These confidentiality provisions will remain binding obligations on each Proponent following the conclusion of this RFP process until the Town of Canmore reasonably determines that such confidential information referred to herein has become part of the public domain (other than by disclosure or use prohibited herein) and releases the Proponent from its confidentiality obligation. This requirement does not prohibit any Proponent from complying with an order to provide information or data issued by a court or other authority with proper jurisdiction or to act to correct or report a situation which the Proponent may reasonably believe to endanger the safety or welfare of the public.
- 2.8.2** The applicant acknowledges that any information or documents provided by it to the Town of Canmore may be released pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*. This acknowledgement shall not be construed as a waiver of any right to object to the release of any information or documents.
- 2.8.3** The Town of Canmore acknowledges that a Proponent's response may contain information in the

nature of a Proponent's trade secrets or commercial, financial, labour relations, scientific or technical information of or about a Proponent. The Town of Canmore agrees that portions of responses to this RFP which are provided in confidence will be protected from disclosure to the extent permitted by law. The Town of Canmore is bound by the *Freedom of Information and Protection of Privacy Act* (Alberta), as amended from time to time, and all documents submitted to the Town of Canmore will be subject thereto. Each Proponent must identify appropriate parts of its response or other documents submitted to the Town of Canmore as confidential and specify what harm could reasonably be expected from its disclosure; however, the Town of Canmore may not be able to ensure that such parts will not be protected from access.

2.8.4 Proponents are advised that the Town of Canmore will, as necessary, be disclosing the responses on a confidential basis to its employees and advisors who have a need to know in connection with this RFP process for, among other things, the purpose of evaluating and participating in the evaluation of the responses. It is the responsibility of each Proponent to ensure that all personal information provided to the Town of Canmore with respect to the Proponent's personnel and their experience is supplied with the informed consent of such individuals and in accordance with applicable law. By submitting any personal information each Proponent represents and warrants that it has obtained the informed consent of the individuals who are the subject of such information to its collection, use and disclosure for purposes of this RFP response. Also, such individuals are agreeing to the use of such information as part of the RFP evaluation process, for any audit of the procurement process and for contract management and performance purposes.

2.8.5 Vendors or suppliers having access to or custody of the Town of Canmore records shall be required to comply with the provisions of the *Freedom of Information and Protection of Privacy Act*.

2.9 COST OF PREPARATION

2.9.1 Any cost incurred by the Proponent in the preparation of its response to this RFP shall be borne solely by the Proponent.

2.9.2 Shortlisted candidates may be invited to participate in an interview. The Town of Canmore will not pay for the time required or travel expenses incurred to participate in the interview.

2.10 OWNERSHIP OF SUBMISSIONS

2.10.1 All responses submitted to the Town of Canmore become the property of the Town of Canmore and shall not be returned. They will be received and held in confidence by the Town of Canmore, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Unsuccessful Proponent submissions will be kept as record for the procurement process until two years after the date of decision for the RFP award.

2.11 CLARIFICATION FROM PROPONENTS

2.11.1 The Town of Canmore reserves the right to seek from any/all Proponents any further clarification it may require on responses submitted pursuant to this RFP.

2.12 PROPONENT PERFORMANCE

2.12.1 The selected Proponent may be evaluated throughout the course of service delivery in connection with any specific work or projects undertaken as a result of any agreement entered into between any Proponent and the Town of Canmore. The Town of Canmore may also conduct periodic reviews/assessments of any selected Proponent, taking into consideration, in addition to

specific work related to the project undertaken by the Proponent, ongoing Proponent staff qualifications, experience, training, and staff changes. Any evaluation/assessment will be shared with the Proponent, with the goal of immediate and permanent resolution where concerns have been raised. The Town of Canmore reserves the right to remove from the roster any selected Proponent who has been qualified by this RFP process by way of written notice if, in the sole discretion of the Town of Canmore, based on any on-going or specific evaluation or assessment of the Proponent or its performance of any work, it is deemed to be in the Town of Canmore's best interests.

2.13 LENGTH OF AGREEMENT

- 2.13.1** The work under this agreement is to be contracted for two years from the date of signing, with the option for 1 year extensions up to 5 years, unless otherwise determined by the Town.
- 2.13.2** The Town reserves the right to extend this term to complete any in-progress projects.
- 2.13.3** Additional award periods will be based on mutual agreement between The Town and the Successful Proponent. However, The Town reserves the right to negotiate various changes to the Agreement to reflect current conditions at the time of renewal.

2.14 FORM OF CONTRACT

- 2.14.1** The Town of Canmore will be issuing a letter of award to the Successful Proponent to deliver the work described within this Request for Proposal.

The contract to be executed between the Town of Canmore and Successful Proponent (Contractor) is a Master Consulting Agreement Between Owner and Contractor. Refer to Appendix C,

2.15 PROFESSIONAL SERVICES TERMS AND CONDITIONS

- 2.15.1** Agreements consist of any number of the following documents including all amendments incorporated in the documents before their execution and subsequent amendments made pursuant to the provisions of the Agreements:
- Master Consulting Agreement
 - Request for Proposal
 - Addenda
 - Technical & Fee Proposal
 - Letter of Award
- 2.15.2** The Town of Canmore Master Consulting Agreement (MCA) sets out the terms and conditions of consulting services to the Town of Canmore. Successful Proponents who provide consulting services and who have not executed a MCA will be required to as a condition of an award of contract under this RFP.
- 2.15.3** Any inconsistent or conflicting provisions contained within the documents forming the Agreement shall be resolved in the following order:
- Letter of Award
 - Technical & Fee Proposal
 - Addenda
 - Request for Proposal

- Master Consulting Agreement

2.16 STAFF CHANGES

2.16.1 Staff changes by the successful Proponents will require written approval from The Town prior to any such change, which approval The Town may withhold in its sole discretion. The qualifications and experience of the proposed staff change must be equivalent to or better than the staff proposed in the proposal received. The Town reserves the right, in addition, and without prejudice to any other right or remedy, to immediately terminate the Agreement as a result of the failure by the Successful Proponent to provide the staff proposed.

2.17 NON-ASSIGNMENT

2.17.1 Neither the contract nor any work to be performed under the contract or any part hereof may be assigned by the Successful Proponent without the prior written consent of the Town of Canmore. Such written consent however shall not under any circumstances relieve the Successful Proponent of its liabilities and obligations under the Contract and the granting of such consent shall be within the sole and unfettered discretion of the Town of Canmore.

2.18 DEPOSITS

2.18.1 The Town of Canmore will not consider the payment of a deposit to the Successful Proponent for the scope of work in this RFP.

2.19 TERMS OF PAYMENT

2.19.1 Invoices will be paid within 28 days from the approval date of the invoice.

2.20 INSURANCE AND WORKERS' COMPENSATION BOARD REQUIREMENTS

2.20.1 Mandatory Eligibility Requirements

As a mandatory eligibility requirement for response to this RFP:

- (a) The Successful Proponent shall carry at all times during the performance of the work General Liability/ Umbrella Liability Insurance with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) inclusive per occurrence for bodily injury (including death) and damage to property including loss of use thereof. Such insurance shall at a minimum include coverage of broad form property damage, contractual liability, cross liability, completed operations and product liability, and such other types of insurance as would be carried by a prudent person performing such contract work and as the Town of Canmore may from time to time require.
- (b) The Successful Proponent shall carry at all times during the performance of the work Automobile Liability Insurance for owned and non-owned automobiles with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) inclusive per occurrence.
- (c) The Successful Proponent shall at all relevant times carry Workers Compensation Board coverage of either of Alberta or of another AWCBC board that will extend the required amount of coverage to cover the employee outside of their home province. Proponents shall submit their WCB number together with a letter from the appropriate department indicating there are no outstanding fees, fines, claims or debts due on the Successful Proponent's account to the Town of Canmore prior to the

commencement of the work.

2.20.2 Responsibilities of Successful Proponent

- (a) The Successful Proponent shall supply insurance coverage and pay all costs and expenses, including premiums relating to the insurance coverage requirements as set out herein, and shall supply the Town of Canmore with a certificate of insurance for all policies on an annual basis. Such policies will include a statement that the coverage shall not be terminated without a prior 30-day written notice to the Town of Canmore.
- (b) The Successful Proponent or their insurer will notify the Town of Canmore at least thirty (30) days prior to any change in insurer, any cancellation of the insurance policy, or any substantial change in the policy or coverage that would materially alter the coverage provided by the Successful Proponent to the Town of Canmore.
- (c) The Successful Proponent shall provide a certificate of such insurance to the Town of Canmore within five (5) days of notification of award or prior to commencing the work, whichever is sooner.

2.21 INDEMNIFICATION

- 2.21.1** The Successful Proponent agrees to indemnify and save harmless the Town of Canmore, its councillors, officers, agents, representatives, and employees, against all suits or claims, requests, legal action and liability regardless of the nature and expenses sustained from injuries or death or any damages or loss to property as a result of the usage of premises or in the execution of the Successful Proponent functions arising from this contract except to the extent of the Town of Canmore's gross negligence.
- 2.21.2** At no time will the Town of Canmore be responsible for any injury sustained by the Successful Proponent, their employees or any person on the Town of Canmore's premises, nor will the Town of Canmore be responsible for any loss, including loss of profits or damage caused to the goods of the Successful Proponent, their employees or any other person, including damage to vehicles and their contents, while these goods are on the Town of Canmore's premises or site.
- 2.21.3** The Town of Canmore shall not be liable for any incidental, indirect, special or consequential damages or any loss of use, revenue or profit of the Successful Proponent arising out of or in any way related to this RFP or subsequent contract.

2.22 CANADIAN FREE TRADE AGREEMENT

- 2.22.1** As per the requirements of the Canadian Free Trade Agreement (2017), this RFP and corresponding purchases are subject to *Chapter Five – Government Procurement of the Agreement*.

2.23 DEBRIEFING

- 2.23.1** The Town of Canmore will offer a debrief to unsuccessful Proponents on request.

END OF SECTION 2.0

3.0 PROJECT OVERVIEW AND SCOPE

3.1 RFP DEFINITIONS

Owner	the Town of Canmore
Project	On-call Environmental Consulting Services
Proponent	a firm, individual or company who or which intends to submit or submits a Proposal pursuant to this RFP.
Proposal	a submission to the Town of Canmore in response to this RFP.
Successful Proponent	a firm, individual or company with whom the Town of Canmore may decide to initially discuss contract arrangements based upon acceptance of the Proponent's Proposal.
Consultant, or Service Provider	the Successful Proponent to whom the Town of Canmore issues a contract/purchase order for the completion of Environmental Services, including: third-party review of various Environment Site/Risk Assessment reports, afterhours environmental emergency call out services at various sites in Canmore, and other environmental work as identified.

3.2 PROJECT DESCRIPTION/DESCRIPTION OF NEED

3.2.1 The purpose of this Request for Proposals (RFP) by the Town of Canmore is to select a Proponent with the capability and expertise to complete Environmental Services, including: third-party review of various Environment Site/Risk Assessment reports, afterhours environmental emergency call out services at various sites in Canmore, and other environmental work as identified.

3.2.2 Depending upon the results and outcome of the deliverables of the project expressed herein, additional related work may arise whereupon the Town reserves the right to either utilize the services of the successful proponent, subject to the successful proponent's performance, funding and successful negotiation or return to the market with a new proposal document when in the Town's best interest.

The Town reserves the right to award the assignment in whole or in part or to delete any portion of the work.

The Town also reserves the right to issue a separate RFP for related services for a specific project when in best interest of The Town. Related services may also, at the discretion of the Town, be awarded to another consultant as part of larger Town projects (i.e. subconsulted by the Prime Contractor on a major construction project).

3.3 PROJECT SITE

3.3.1 Town of Canmore municipal boundaries.

3.4 SCOPE OVERVIEW/SCOPE OF SERVICES

3.4.1 GENERAL SCOPE OF WORK

The Town of Canmore manages environmental site contamination and liabilities and implements policies on site contamination. The Town also has a responsibility to ensure that the land within the Town is suitable for development and may require third party review of various environmental site assessments submitted to the Town. The Town, through its operations, may cause or come across an environmental release that requires an urgent response to contain, manage and report on. As a result, the Town is looking to contract a proponent complete the following work.

3.4.2 Schedules of Work
Schedule A

1. Third Party Review

Definition: On occasion the Town receives Environmental Site Assessments and reports as part of the Planning and Development process. The Town under the Municipal Government Act has a requirement to ensure that the land it is approving for development is suitable for its intended use. In most situations the Town relies heavily on the consultants of the Applicant, but may at times, require a Third Party review to ensure the Environmental Site Assessment and reports submitted are satisfactory.

Schedule B:

1. Urgent Response / Afterhours Environmental Emergency Call Out Services

Definition: After hours environmental assessment services may be required in the event of a contamination discovery or environmental release. As the request for environmental consulting services could be outside of regular business hours, it is expected that the successful proponent will be contacted directly by the Town's project manager.

The main objectives for the successful proponent will be to characterize and coordinate disposal of the contaminated soil, groundwater and any other contaminated material and debris. The minimum expectations are that representative soil and water samples will be collected for laboratory analyses (waste characterization and final base and wall sampling), periodic monitoring of soil headspace vapour concentrations will be done while contamination remains present in the excavation, and coordinating the offsite disposal of contaminated soil and/or groundwater. Questions regarding assistance using any on-site equipment (such as backhoe), area to stockpile soil (if necessary), or other queries should be directed to the site's Town project manager. If the Town's Project Manager is unable to secure equipment, it is the responsibility of the Proponent to secure equipment and competent operators.

All information gathered during the investigation (e.g. recorded soil headspace vapour concentrations, all results of laboratory analyses of soil and groundwater, mass and volume removed offsite) are to be documented in a report and submitted to the Town.

Before proceeding with any of the above activities, confirm with the site's Town project manager. All invoices are to be directed to that Town project manager.

Schedule C: Other Possible Work

On occasion the Town may require the following services. The Town reserves the right to continue the engagement of the successful proponent on a previous project or from the Prime Contractor on the project, if in the Town's best interest.

1. Phase I ESAs and Initial Phase II ESA

Definition: A Phase I ESA is an assessment used to identify potential site contamination. It is a systematic process by which an assessor seeks to determine whether a particular property is or may be subject to contamination. An Initial Phase II ESA is a systematic, iterative process by

which an assessor seeks to characterize concentrations or quantities of substances of concern in the subsurface related to a site and compare those levels to criteria (Alberta Tier 1 or Tier 2 Soil and Groundwater Remediation Guidelines or other stipulated guidelines).

2. Delineation Phase II ESA

Definition: A Delineation Phase II ESA supplements the previous Initial Phase II ESA and provides definitive information about a site's subsurface condition.

3. Groundwater and/or Soil or Vapour Monitoring

Definition: A program to monitor the subsurface groundwater or soil or vapour conditions.

4. Risk Management Plan

Definition: A risk management plan is required for areas that have not been remediated and contamination is greater than Alberta Tier 1 or Tier 2 Soil and Groundwater Remediation Guidelines. (<http://www.environment.alberta.ca/>). Risk management measures are designed and implemented to ensure that human health and ecological health are protected. Elements of a risk management plan include, but are not limited to, the following: protection of receptors, demonstration that any potential adverse risks are being managed, administrative and exposure controls, land use restrictions, monitoring, affected third party acceptance, and commitment from a responsible party.

5. Remedial Action Plan

Definition: Remedial action plans could include, but are not limited to, cleanup, removal, containment, isolation or treatment of contamination released into the environment.

6. Methane Assessment

Definition: Methane is a colourless, odourless, flammable gas that is not a regulated substance under the Alberta Environmental Protection and Enhancement Act and is not normally considered a contaminant. It is a concern due to its explosive risk when it is in an atmosphere at concentrations between 5% and 15% by volume and when there is at least a potential for an ignition source to be present. A methane assessment could include, but is not necessarily limited to, soil vapour sampling or a forensic geo-gas investigation

7. Human Health and Ecological Risk Assessment

Definition: A human health and ecological risk assessment is required when a potential health problem from exposure to a chemical of potential concern is identified. The exposure assessment would identify endpoint and estimate how much chemical would cause health effects and determine cancer and non-cancer risks to the general population, and gather information required to protect ecological receptors. The process could include, but not necessarily be limited to, problem formulation and conceptual site models, exposure assessment modeling, toxicological or chemical hazard assessment, risk characterization and risk communication.

8. Surface Water Sampling

Definition: A surface water sampling program is the monitoring of surface water conditions

3.4.3 DUTIES, RESPONSIBILITIES AND DELIVERABLES OF CONSULTANT

For any future sites, urgent response or third party review, the scope of work for the successful proponent may include, but not limited to the following tasks:

1. Review relevant data and reports for the site provided by the Town project manager, if available;
2. Attend meetings with the Town project manager to present and discuss proposed approach for completing the work, as required;
3. Submit a detailed work plan and cost estimate based on the schedule provided and scope discussions with the Town project manager;
4. Assume the role and responsibilities of the prime contractor;
5. Provide update reports or memos at specified intervals detailing findings, as required;
6. Discuss the results with the Town project manager;
7. Generate a draft report on the urgent response, or third party review. Draft reports are to be submitted to the Town project manager only after senior technical review is completed by the successful proponent. The Town will not complete senior technical review on any environmental assessment document;
8. Finalize the report documenting the site assessment, ensuring content adheres to all project agreements;
9. Provide recommendations for future work as required;
10. Complete a Domestic Use Aquifer Exclusion assessment, as required;
11. Complete an Alberta Tier 2 guideline assessment, as required;
12. Complete and sign an Alberta Environment’s Application for a Remediation Certificate on behalf of the Town, when requested by the Town; and
13. Complete and sign an Alberta Environment’s Record of Site Condition on behalf of the Town, when requested by the Town.

3.4.4 OPTIONS OR EXTENSIONS

Agreements with the successful proponent resulting from this RFP shall be in effect for a period of two (2) years from date of official acceptance by the Town and may be extended in one (1) year increments for up to an additional two (3) years, for a total of three (5) years.

Additional award periods will be based on mutual agreement between the Town and the successful proponent. However, The Town reserves the right to negotiate various changes to the contract award to reflect current conditions.

The Town reserves the right to extend this term to complete any in-progress environmental projects.

3.4.5 SERVICES NOT INCLUDED

None

3.5 ANTICIPATED PROJECT SCHEDULE

3.5.1 The following table outlines the expected timeline for this Project

Activity	Planned Date
Signing of agreement	Sept 4, 2023
Commencement of work (target)	Sept 4, 2023
Completion of work (target)	2 years post signing, with the option of 3 one year extensions

END OF SECTION 3.0

4.0 RESPONSE REQUIREMENTS AND EVALUATION CRITERIA

4.1 FORMAT AND OUTLINE OF RESPONSES

All responses are to be submitted on 8.5” x 11” size paper with an electronic copy submitted in PDF (.pdf) as outlined in the RFP instructions.

Responses to each section shall be marked with the corresponding letter and number (e.g. A1, A2, etc.).

4.2 PROPOSAL SUBMISSION REQUIREMENTS

Following the submission of proposals, the Town’s Evaluation Committee will review all proposals and score them according to the criteria identified in this Section. Once the evaluations are completed, the Town may select one or more proponents to interview. The Town may then decide to enter into negotiations with the preferred proponents with a view to negotiating a contract.

Evaluation scores and rankings are confidential, and apart from identifying the top-ranked proponent no details of the proposal or score or ranking of any proponent will be released to any other proponent.

4.2.1 Compliance

A Proposal will first be reviewed for compliance with the criteria of this RFP. A Proposal not complying with the criteria may be considered non-compliant and not receive further consideration.

Proposal Mandatory Requirement Checklist		Initial
1	Received by the Town of Canmore prior to the closing date and time.	
2	Certificate of Recognition (such as COR, SECOR or equivalent).	
3	A letter signed by an authorized corporate officer agreeing to complete and sign Alberta Environment’s Application for a Remediation Certificate on behalf of the Town of Canmore	
4	A letter signed by an authorized corporate officer agreeing to complete and sign Alberta Environment’s Record of Site Condition on behalf of the Town of Canmore	
5	A letter stating listed field staff have, at minimum, current training in WHMIS, TDG, first aid, Hazard Identification and Control, Ground Disturbance and H2S Alive	
6	A letter stating that at least one employee, preferably the highest ranking safety professional, has completed Incident Investigation training	
7	A current “Letter of Good Standing” from the Alberta Worker’s Compensation Board, including supporting documentation verifying WCB Coverage for all working company Officers, Partners and Directors.	
8	Confirmation of General Liability / Umbrella Liability Insurance	
9	A PDF copy of your company’s formal, documented Occupational Health & Safety Program Manual. The manual should include but not necessarily be limited to the following:	

	<ul style="list-style-type: none"> a. Hazard assessment; b. Project orientation; c. Worksite inspections; d. Safety meetings; e. Incident reporting and investigation; f. Emergency preparedness and response, including working alone; g. Worker fitness; h. Noncompliance with respect to safety rules and regulations; i. Personal protective equipment; j. Tools and equipment; k. Occupational Health; and l. Safe work practices and procedures. 	
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4.2.2 Proposal Submission

- a. Hourly rate costs will be evaluated for this RFP. The proponents must provide a current charge out rate for their employees that will be considered for this work. The Town will negotiate pricing with the successful Proponents on a per project basis.

- b. Your firm is invited to submit a written proposal in letter format. Brevity is appreciated and proponents are requested to limit their proposals to **no more than ten (10) pages**. Appendices, organizational charts and personnel resumes are not to be considered in the number of pages. The qualification package should be thoughtfully prepared, neat, concise, professional and containing relevant information. Do not include company promotional material with the submission.

- c. The proposal will be evaluated in terms of overall readability, completeness and appropriateness. There should be no contradictory statements or conflicts with current technical standards and regulations.

- d. Proponents should use the Evaluation Criteria listed in section 4.3 to provide the basis of your firms’ response and maintain the paragraph numbering. Include an introduction or cover page, with a Proposal Requirement Checklist, and any appendices and other requested documentation.

- e. For ease of evaluation, clearly indicate schedule specific information.

4.3 EVALUATION PROCESS

- 4.3.1** Selection of the Successful Proponent(s) pursuant to this RFP will be made on the basis of the Proponent’s written response and other factors germane to the Town of Canmore. The responses shall be evaluated based on the matrix shown below.

Evaluation Criteria	Evaluation
A. Mandatory Requirements	Pass / Fail
B. Management Qualification and Staff Experience and Qualifications	30
C. Safety Performance	15
D. Project Understanding and Methodology	30
E. Quality of Proposal	10
F. Hourly Rate (price)	15

Evaluation Criteria Further Explained:

B. Management Qualification and Staff Experience and Qualifications

- a. Describe the capabilities and management qualifications in terms of methods, approach, and tools the proponent intends to deploy in fulfilling project scope and requirements.
- b. Reference any independent measures of management system (e.g. ISO registration, independent customer satisfaction surveys).
- c. Provide an organization chart (include all individuals proposed to work on Town projects).
- d. Provide details on project tracking.
- e. Provide details on standard procedures for corrective action once a project has started (e.g. delays in field work, overdue reports, and cost overruns).
- f. Provide a description of the report writing process (such as, internal review, sign-off by senior staff of draft environmental assessments documents before submitting to the Town, quality control). Identify those individuals who will be assigned key roles in all stages of an environmental assessment, and their ability and availability to provide services in Canmore over the duration of an environmental assessment.
- g. Specifically for *Schedule B: Urgent Response*, describe your firm’s ability to respond with a one (1) hours’ notice, including after regular business hours, and ability to continue on a project if required.
- h. Describe the composition, lead and individual roles, of the proposed core team to be assigned with reference to applicable skill sets, credentials and years of experience in delivering similar projects. Provide the information in summary form (table).
- i. Attach the resumes of the key project team members.
- j. Identify experience working with contamination related to coal and coal mining activities

C. Safety Performance

- a. Provide a copy of the current Certificate of Recognition or SECOR.
- b. Provide a copy of the corporate Occupational Health & Safety (OHS) Manual.
- c. Attach a description of how the company reviews and verifies the Occupational Health & Safety program of its subcontractors.
- d. Indicate if your firm has safe work practices and/or procedures for the following:

Safe Work Practices and Procedure	Yes	No	N/A
Hazard Assessment			
Project Orientation			
Worksite Inspections			
Safety Meetings			
Incident Reporting and Investigation			
Emergency Preparedness and Response			
Worker Fitness			
Non Compliance with respect to Safety Rules and Regulations			
Personal Protective Equipment			
Tools and Equipment			
Occupational Health			
Fall protection			
Working at heights			
Hot work			
Managing the control of hazardous energy			
Handling and transporting hazardous substances			
Confined space entry			
Respiratory protection			
Traffic control			
Excavations and trenching			
Working near power lines			
Obligation to refuse unsafe work			
Temporary work platforms			
Cranes, hoists and lifting devices			
Mobile equipment			

- e. Identify the Health and Safety Training for each staff that will be conducting field work, the following training is considered mandatory: WHMIS, TDG, First Aid, Hazardous Identification and Control, Ground Disturbance and H2S Alive. In addition, at least one staff member is required to have training in Incident Investigation.
- f. Provide details on Health and Safety performance: number of hours worked, incident rate, total fatalities, total near miss and hazardous condition reports, and lost time claim (LTC) rate for the last three (3) years.
- g. Provide the resume of the highest ranking safety professional.

D. Project Understanding and Methodology

- a. Identify your understanding of project goals and objectives of environmental assessments and monitoring programs. Identify your project management approach and methodology to manage projects of this nature.
- b. Specify your project management capabilities in the area of project planning, budgeting, scheduling, risk management, communication and quality control.
- c. Provide up three (3) to five (5) examples of projects considered relevant and comparable to this project. Proponents may provide up to two (2) references per project to assist the evaluation

committee in this process. The Town reserves the right to contact only the short-listed proponent references when in the Town's best interest.

E. Quality of Proposal

- a. The proposal will be evaluated in terms of overall readability, completeness and appropriateness. There should be no contradictory statements or conflicts with current technical standards and regulations.

A submission will first be reviewed for compliance with the mandatory requirements of this RFP as listed above. A submission not complying with the criteria may be considered non-compliant and not receive further consideration.

4.4 PROPONENT SHORTLIST

- 4.4.1** It is expected that Three (3) Proponents will be shortlisted based on the evaluation of submissions for the criteria outlined in section 4.3 above. The Town of Canmore reserves the right to shortlist any number of Proponents.
- 4.4.2** Proponents are not guaranteed any paid assignment as a result of being shortlisted via this RFP. Shortlisted Proponents may be required to undergo an interview prior to final selection of the Successful Proponent.

4.5 CONFIDENTIALITY OF EVALUATION

- 4.5.1** Evaluation scores and rankings are confidential, and apart from identifying the top-ranked Proponent, no details of the submission, score or ranking of any Proponent will be released to any Proponent.
- 4.5.2** As required by the Canadian Free Trade Agreement, the name of the Successful Proponent and the value of the award will be posted on the Alberta Purchasing Connection.

4.6 RFP SCHEDULE

The following schedule has been established for this RFP:

- RFP issued on Town of Canmore website/Alberta Purchasing Connection July 27, 2023
- Last day to submit questions to Town of Canmore designate (note that Town staff will be away from August 3-13, questions will be answered upon staff return) August 14, 2023
- RFP closing date August 18, 2023
- RFP evaluation period September 4, 2023
- Letter of award to be issued to Successful Proponent September 4, 2023
- Issue contract to Successful Proponent September 4, 2023

END OF SECTION 4.0

5.0 SIGNATURE AND WAIVER SHEET

1. The Proponent hereby acknowledges that prior to submitting a Proposal for this project, the Proponent has obtained from The Town and thoroughly reviewed in order to be familiar with and certain as to all of the terms and conditions set out in the Request for Proposal documents and all amendments thereto which are incorporated by reference into the above-cited Proposal as follows:
 - a) Town of Canmore Master Consulting Agreement;
 - b) Affidavit of Execution; and
 - c) Affidavit of Corporate Signing Authority.

The referenced documents may be viewed at The Town's website (<https://canmore.ca/business/find-a-form>).

- a) The Proponent acknowledges the documents incorporated by reference as indicated in paragraph 1 above.
 - b) The Proponent further acknowledges that unless otherwise agreed by both parties and confirmed in writing it is subject to and bound by each provision included in each document incorporated by reference to the same extent that it would be if each such provision were set out and included with the hard copy of the Contract Documents.
 - c) The Proponent further acknowledges and confirms that either:
 - i. It has read and understood each provision included in each document incorporated by reference; or
 - ii. By signing this Signature and Waiver Sheet it waives any and all rights to claim or argue that it was not aware of any provision of any document incorporated by reference.
2. The terms of this document are severable from one another, and the invalidity of any one or more paragraphs in this document, will not affect the validity of the other paragraphs.
 3. The Proponent hereby acknowledges it has thoroughly reviewed and understood all the terms and conditions of the Request for Proposal ("RFP") which include those contained in the Instructions for Responding to this Request for Proposals, General Conditions of Response, all documents included by reference as set out in Paragraph 1, all drawings and specifications as may be listed in the Table of Contents and included in the Appendices (together the "Terms and Conditions").
 4. By signing this sheet, I confirm I have the full authority to represent the Proponent in all matters relating to the Proposal, and I confirm that the Proponent agrees to be bound by all the Terms and Conditions.

Name of Business Entity	
Complete Address:	
Phone	Mobile Phone
Fax	Email
Website	
Proponent Signature	Affix Corporate Seal:
Title	
Printed Name	
Date	

Note: A seal is a preferred element of the signing of a submission. However, if the corporation or other legal entity making the submission does not have a seal or if it is not available, the corporation or entity should provide reasonable documentation to confirm the printed name and position of the person or persons signing, as well as to confirm that such person or persons signing on behalf of the entity has or have authority to bind the entity. Affidavits of authority and execution will normally constitute reasonable confirming documentation. Forms for each of these affidavits can be found at (<http://canmore.ca/business/find-a-form>). Without limiting the preceding paragraph but for further clarity, if the corporation or other legal entity does not have a seal or if it is not available:

- For a corporation or other business association, the printed name and position of the person or persons signing together with an affidavit of execution and an affidavit of authority should be completed and submitted,
- For an individual or sole proprietorship, the printed name and position of the person signing together with an affidavit of execution should be completed and submitted.



6.0 APPENDIX A – PROPOSED FIXED PRICE FORM

Date: _____

I/we, _____

(Company Name)

of _____

(Business Address)

I/we have carefully examined all documents prepared for this contract; and hereby offer to furnish all labour, materials, and services for the proper execution and completion of the entire scope of work for **Environmental Consulting Services** including all addenda thereto which are acknowledged hereinafter for the above project for the fixed price indicated as follows:

Total proposed fixed price **excluding GST**:

_____ CAD Dollars (\$_____)

I/we acknowledge receipt of the following Addenda and have included for the requirements thereof in my/our RFP response: Addendum # _____ to _____.

(Signature)

7.0 APPENDIX B – HOURLY RATES

Date: _____

I/we, _____

(Company Name)

of _____

(Business Address)

Provide proposed hourly rates **excluding GST**:

Position Title	Rate Per Hour (in CAD \$)

I/we acknowledge receipt of the following Addenda and have included for the requirements thereof in my/our RFP response: Addendum # _____ to _____.

(Signature)

8.0 APPENDIX C – REFERENCE DOCUMENTS

**MASTER CONSULTING AGREEMENT
TERMS AND CONDITIONS**

THIS AGREEMENT DATED: _____

BETWEEN:

THE TOWN OF CANMORE
a Municipal Corporation of the Province of Alberta,
(hereinafter referred to as "The Town")

OF THE FIRST PART

- and -

(hereinafter referred to as the "Consultant")

OF THE SECOND PART

WHEREAS the parties wish to provide general terms and conditions under which the Consultant will perform consulting services from time to time for The Town or an affiliate thereof, pursuant to an Assignment, Statement of Scope, Request for Proposal, written or verbal work orders or requests for services, which shall be confirmed in writing by Award Letter issued by The Town;

NOW THEREFORE the parties agree that this Master Consulting Agreement (which may also be referred to as the "MCA") will form part of each engagement of the Consultant to provide consulting services to The Town, along with a project specific scope of work and Award Letter.

1.0 Purpose and Relevant Documents

1.1 The purpose of this document is to:

- (a) provide general terms and conditions for the Consultant to provide consulting services from time to time; and
- (b) identify the Consultant as being eligible for providing consulting services to The Town.

1.2 The document by itself does not obligate The Town to order any services from the Consultant, or for the Consultant to accept any order for services from The Town.

1.3 Each project that is to be carried out by the Consultant on behalf of The Town will require and be governed by:

- (1) one or more of a Statement of Scope, Request for Proposal, written or verbal work order, request for services that confirms the scope of services required,
- (2) an Award Letter, and
- (3) this Master Consulting Agreement.

Verbal instructions or work orders are of no effect unless promptly confirmed in writing by the Town.

- 1.4 Without limiting the generality of the foregoing, but for greater clarity, the following documents (collectively called the "Agreement") will constitute and contain the terms of agreement between the parties for the performance of consulting services ("Services") in respect of a particular project:
- (a) one or more of a Statement of Scope, Request for Proposal, and written requests for services;
 - (b) written response or proposal letter outlining scope and fees ("Proposal") reviewed and accepted in writing by the Owner;;
 - (c) The applicable Letter of Award;
 - (d) This Master Consulting Agreement, and
 - (e) Any other document as is specifically identified or incorporated by reference in the applicable Award Letter.

2.0 Term of Master Consulting Agreement

- 2.1 This MCA will be in effect for a period of one (2) year commencing as of the effective date set out at the beginning of this document (hereinafter referred to as "Term").
- 2.2 When mutually agreeable between The Town and the Consultant, the term of This Master Consulting Agreement may be extended or renewed under the same terms and conditions for one (1) year periods, not to exceed three (3) additional years. Unless or until either party gives at least thirty (30) days written notice of termination prior to any of the first three (3) anniversary dates of the commencement date, the extension or renewal will be automatic without any further documentation or confirmation being required.

3.0 Performance

- 3.1 Upon the Consultant agreeing to perform the Services and upon The Town issuing an Award Letter therefore, the Consultant will undertake the performance of the Services as scheduled by The Town and thereafter carry them on to completion with due diligence and in a proper professional manner in accordance with generally accepted professional standards. The Town may, at its absolute discretion, stop or suspend the performance of the Services at any time, but when the Consultant is not in default, The Town shall reimburse the Consultant in accordance with its schedule of rates referred to below for the reasonable costs occasioned by such stoppage or suspension. The Consultant shall make no change or alteration in the Services or perform any additional Services without The Town's written authorization, which authorization will not be unreasonably withheld or conditioned.
- 3.2 The Town may request that the Consultant provide Services to affiliates of The Town from time to time. The phrase "affiliate of The Town" includes but is not limited to any corporation or partnership in which The Town holds a controlling interest. The Consultant agrees that in the event of the Consultant and an affiliate of The Town mutually agreeing to have the Consultant provide services, the terms and conditions herein will apply to the provision of Services to the affiliate of The Town. References hereinafter to "The Town" are deemed to refer to or include any affiliate for whom the Consultant is providing Services, when appropriate.
- 3.3 The Consultant agrees to immediately report all orders, notifications, advice or other contact,

whether verbal or written, received from governmental officials (whether federal, provincial or local) relating to the provision of Services to The Town.

- 3.4 The Consultant may be evaluated on its performance at any time during the Term as well as on contract completion. The Town's project manager shall provide a copy of the completed vendor performance evaluation form to the Consultant. Information contained in the form will be used for future proposal evaluations and award recommendations. Should the Consultant view any of the information contained therein to be at variance with its own evaluation of performance, the Consultant shall, within ten (10) days of receipt of the vendor performance evaluation form, give notice in writing to The Town setting out the items in question which the Consultant feels to be incorrect. The Town will then arrange a meeting including the project manager for The Town and the Consultant to review the differences.

4.0 Acquaintance with Conditions

- 4.1 The Consultant shall acquaint itself with the job site and with all conditions pertaining to the performance of the Services. The Town accepts no responsibility for the failure of Consultant to familiarize itself as required, and is not prepared to allow any claim for an increase in fees or compensation arising from any failure of Consultant to reasonably anticipate difficulties.

5.0 Duties of the Consultant

- 5.1 In the performance of the Services, the Consultant, where applicable, shall:
- (a) Before starting the Services, appoint a competent, authorized representative acceptable to The Town to represent and act for the Consultant, inform The Town in writing of the name and address of such representative together with a clear statement of the scope of authority to represent and act for the Consultant, and specify any and all limitations of such authority.
 - (b) Furnish at its own expense and cost any and all necessary labour, machinery, equipment, tools, transportation, permits, materials, and whatever else is necessary in the performance and completion of the Services other than such items therefor as The Town specifically agrees to furnish.
 - (c) Comply with all applicable legislation, regulations, codes and rules of any governmental body having jurisdiction, including without limitation the Environmental Protection and Enhancement Act (Alberta) and the Alberta *Workers' Compensation Act*. In addition to the foregoing and not in substitution, Consultant must fully comply with all applicable safety legislation, regulations, codes and bylaws, whether Federal, Provincial, or local. In case of any overlap the more stringent will apply. It is the responsibility of Consultant to ensure that all subconsultants, contractors, suppliers, agents, and employees employed by Consultant in the performance of its obligations herein are aware of and conform to all applicable Federal, Provincial and local safety legislation, regulations, codes and rules.
 - (d) Cause a minimum of interference with The Town's operations and the operations of other contractors on the premises, take all necessary precautions to protect the premises and all persons and property thereon from damage, and, on completion of the Services, leave the premises clean and free of all tools, equipment, waste material, and rubbish.
 - (e) Pay and discharge all valid taxes, lienable claims, charges or other impositions imposed or to be imposed by law on Consultant or The Town arising out of, in connection with, or resulting from the Services performed. The Consultant agrees to indemnify The Town against any liability for any such taxes, lienable claims, charges or impositions except taxes imposed on Services that The Town has specifically agreed to pay for.

6.0 Fees Payable

- 6.1 Unless a fixed fee consultant contract is in place, the following fee structure will apply to all work:

- (a) The Town will pay the Consultant for its fees and disbursements in connection with Services performed under the applicable Award Letter. The method of billing fees and disbursements will be as agreed between The Town and the Consultant, confirmed in writing.
- (b) The fees payable must not exceed a total agreed amount, unless The Town has provided prior written approval. If there is to be a contingency amount in addition to the above-described total amount payable, no amount of such contingency may be paid to the Consultant as fees or otherwise without prior approval in writing from the duly authorized representative of The Town, acting reasonably.
- (c) Disbursements will be in addition to the fees payable, and be billed to a maximum of eight (8%) percent of fees, unless otherwise agreed by The Town and the Consultant and confirmed in writing.
- (d) Invoices will be payable by The Town for work completed hereunder to the satisfaction of The Town, within forty-five (45) days of receipt of an invoice detailing hours worked and disbursements included. If the parties so agree fees may be made payable at regular intervals during the currency of this Agreement for work in progress completed to the satisfaction of The Town.
- (e) Goods and Services Tax (GST) is excluded from the prices herein. GST, to the extent applicable, will be shown separately on all invoices and will be paid by The Town to the Consultant. If GST is applicable, the Consultant agrees to include its Business Number on all invoices and remit to the Canada Revenue Agency (“CRA”), pursuant to the provision of the *Excise Tax Act* (Canada), as amended from time to time, any GST paid or due. If the provision regarding unregistered suppliers and “small suppliers” as defined in Section 148 of the *Excise Tax Act* applies, the Consultant should indicate this status on its invoices.
- (f) The Consultant acknowledges that The Town is obligated to deduct a percentage specified by the CRA from certain taxable payments to non-residents, as defined in the Income Tax Act (Canada), as amended from time to time, unless the Consultant provides The Town with a waiver letter from the CRA. Taxable payment includes but is not restricted to Services performed in Canada, computer software license fees, repairs and equipment rentals. For further information, the Consultant must contact the CRA.
- (g) All invoices submitted by the Consultant to The Town require the Award Letter Number as assigned by The Town to be included.

6.2 Limitations on Work and Fee

- (a) Where during the performance of any Services that incorporate this Master Consulting Agreement it appears to the Consultant that the aggregate of the fees to be paid to the Consultant by The Town will exceed the maximum limit of fees permitted to be paid pursuant to the applicable Award Letter, the Consultant must forthwith advise The Town in writing of:
 - i. the amount by which the aggregate of the fees and disbursements will exceed the limit or limits applicable thereto; and
 - ii. the reason or reasons why the limit or limits applicable thereto will be exceeded.
- (b) Unless the Consultant gives the required notice in writing as soon as practicable after the Consultant discovered or reasonably ought to have discovered that the initial limit or limits will or may be exceeded, and in any event not later than fourteen (14) days after such time, The Town may refuse to pay additional fees, or disbursements, or both.
- (c) The Consultant must not proceed to perform any altered or additional Services which if performed would cause the limits of the fees and disbursements as set out to be exceeded unless notice has been given and until the written approval of the Town has been obtained.

7.0 Time

7.1 Time is of the essence for each Agreement and all Services performed relative to each Agreement incorporating this Master Consulting Agreement.

7.2 In the event of any Force Majeure, reasonable time extensions or adjustments will be allowed by

The Town.

- 7.3 “Force Majeure” means an event that results in either party being delayed or unable to perform any part of its obligations under this Agreement due to labor disputes, strikes, walkouts, fire, unusual delay by common carriers, unavoidable catastrophe, or circumstances of any kind beyond the control of such party including without restricting the generality of the foregoing, acts of God, fire, war, provincial or federal governmental regulations in the case of The Town and all governmental regulations in the case of the Consultant. In such an event the affected party will be excused from the performance of any obligation to the extent that performance is prevented, hindered or delayed by such causes. Upon the occurrence of any such event, the affected party shall notify the other party and use reasonable efforts to remedy or correct the delay or failure to perform as soon as possible. The party delayed, hindered or prevented from performing any part of its obligations will not be liable to the other party for any damages, however sustained by the other party, or for any failure to perform any act, or nonperformance of any obligations due to any of these circumstances.

8.0 Insurance

- 8.1 The Consultant, during the term of every Agreement incorporating this Master Consulting Agreement and at its own expense, must maintain, with Insurers allowed by the laws of the Province of Alberta to issue insurance policies in Alberta and in forms satisfactory to the Town Solicitor, the following insurance policies:

- (a) a Commercial General Liability insurance policy for bodily injury (including death) and property damage in an amount of not less than **FIVE MILLION DOLLARS (\$5,000,000.00)** inclusive limit for any one occurrence and such policy is to include:
- i. The Town identified as an Additional Insured;
 - ii. a Cross Liability clause;
 - iii. contractual liability coverage;
 - iv. non-owned Automobile liability clause;
- (b) A Professional Liability insurance policy for damages arising out of errors, omissions, or negligent acts by or on behalf of the Consultant in providing professional services under this Agreement, such insurance policy to be in an amount of not less than **FIVE MILLION DOLLARS (\$5,000,000.00)** for any one claim, and in the annual aggregate, or such other amount as agreed to by The Town and the Consultant and confirmed in writing, and such insurance must remain in operation for at least twelve (12) months after completion of the project;

- 8.2 The said insurance policies are to include provision for the insurers to endeavor to provide The Town with thirty (30) days written notice prior to cancellation.

- 8.3 The Consultant shall furnish documentary evidence satisfactory to the Town of evidence of such policies and of the renewal or continuance of such insurances within ten (10) business days of any expiry date or dates thereof.

- 8.4 The Consultant, and not The Town, shall be responsible for any deductible that may apply in any of the said insurance policies.

- 8.5 The Consultant covenants and agrees that The Town's insurance requirements mentioned above are not to be construed to limit or restrict, and in no manner will limit or restrict the liability of the Consultant.

9.0 Indemnity

- 9.1 The Consultant shall indemnify and hold harmless the Town and its officers, councilors and employees, from and against any and all claims, demands, losses, liabilities, actions, lawsuits and other proceedings, judgments and awards, and cost expenses (including legal fees), arising directly or indirectly, in whole or in part, out of the negligence or any willful act or omission of the Consultant, or any of its agents or employees, in connection with this Agreement or the Consultant services or

work hereunder, within the scope of its duties or authority hereunder.

- 9.2 This indemnity will survive completion or termination of the relevant Agreement for the balance of the relevant limitation period under the Limitations Act (Alberta), as modified by section 10, below
- 9.3 The Town will not be liable nor responsible for any bodily or personal injury or property damage of any nature that may be suffered by Consultant, its employees, agents or sub-consultants in the performance of any Agreement, except to the extent of any negligence or misconduct on the part of The Town.

10.0 Limitations

- 10.1 The parties hereby acknowledge and agree that any limitation period connected with the subject matter of an Agreement incorporating this Master Consulting Agreement, or the particular Award Letter, will be extended for a period of two (2) years in addition to the two (2) years provided in the *Limitations Act* (Alberta).

11.0 Independent Contractor

- 11.1 The Consultant is an independent contractor with respect to all Services performed under an Agreement incorporating this Master Consulting Agreement, and neither Consultant nor anyone used or employed by the Consultant may be deemed for any purpose to be the agent, servant or representative of The Town in performance of such Services or in any matter dealt with herein. The Town will have no direction or control of the Consultant or its employees, agents and subcontractors, except in the results to be obtained. Neither party will assume any liability for the actions or omissions of the other party except as stated in the applicable Agreement, including these terms and conditions.

12.0 Conflict of Interest

- 12.1 During the term of each Agreement, the Consultant must not engage in or provide, to any other person or company or entity, any service or act which would be reasonably perceived to be in conflict with the interest of The Town in respect of the Services being provided by the Consultant to The Town.
- 12.2 The Consultant must provide timely disclosure of any actual or potential conflict of interest for this project, including any arising from any common ownership or association with any party that has worked on or is working on any part of the project.
- 12.3 Any failure to provide timely disclosure of any potential conflict of interest, or failure to avoid engaging in or providing to any other company or entity any service or act which could be reasonably perceived to be in conflict with the interest of The Town in respect of the services being provided by the Consultant to The Town or in violation with any legislation regarding fair competition, will be grounds for terminating any engagement of the Consultant. Any such failure may also be noted on the performance record maintained by The Town for the Consultant.
- 12.4 No officer, employee or agent of the Consultant or its subconsultants may give to, or receive from, any official, officer, employee or agent of The Town, or a spouse or relative of any such person, any commission, fee, rebate or gift, other than courtesies of a nominal value, in connection with any Agreement for the performance of Services. Further, no director, employee or agent of the Consultant or its subconsultants may enter into any business arrangement with any official, officer, employee or agent of The Town that is not related to The Town's business. Without limiting the general audit rights under this clause, The Town may audit any and all records of the Consultant and its subconsultants in connection with an Agreement and the Services performed, and all transactions related thereto, for the purpose of determining whether there has been compliance with this clause.

13.0 Confidentiality and FOIP

13.1 The following terms shall apply to the handling of Confidential Information as defined below:

(a) **Definition:** The Consultant acknowledges that they may come into possession of information from the Town or third parties on behalf of the Town that is sensitive, private, non-public or proprietary in nature and which the Town seeks to have treated as confidential (“Confidential Information”), including but not limited to:

- i. Scientific or technical information or data resulting from studies, tests and assessments;
- ii. business plans, data, statistics, studies, forecasts or analysis;
- iii. drawings, designs and visual depictions;
- iv. professional opinions, interpretations and advice to or from officials;
- v. trade secrets, unpatented inventions, know-how and other intellectual property that is subject to efforts to keep confidential;
- vi. information that would reasonably be considered confidential and which is subject to reasonable efforts to keep confidential, even if not marked a confidential;
- vii. information for which disclosure may or must be refused under that Freedom of Information and Protection of Privacy Act; and
- viii. information belonging to or concerning third parties that the Town must keep private under the Freedom of Information and Protection of Privacy Act or other laws or legal obligations.

(b) **Exceptions:** Confidential Information shall not include information that, at the time of disclosure:

- i. is generally available to the public other than through a breach of confidentiality on the part of the Consultant;
- ii. is available to the Consultant on a non-confidential basis from a third-party source, provided that this third party was not prohibited from disclosing this information to the Consultant by any legal, contractual or fiduciary obligation;
- iii. was already known by or in possession of the Consultant prior to being disclosed by the Town; or
- iv. is required to be disclosed by the order of a court or governmental authority of competent jurisdiction.

(c) **Non-Disclosure:** The Consultant shall at all times:

- i. Protect and keep all Confidential Information strictly confidential using best efforts;
- ii. Not use any Confidential Information, or permit it to be accessed or used, for any purpose other than to perform its obligations under this Master Consulting Agreement; and
- iii. Not disclose any Confidential Information to any person other than the Town’s representatives who need to know the Confidential Information to assist Consultant in performing its obligations under this Master Consulting Agreement.

(d) **Return of Confidential Information:** Upon the expiration or termination of this Master Consulting Agreement for any reason, or at any time upon the Town’s request, the Consultant shall:

- i. return to the Town all Confidential Information , including all copies of Confidential Information and any materials containing Confidential Information; or
- ii. permanently erase or destroy all the Town’s Confidential Information from the Service Provider’s computer systems and paper records; and

- iii. certify to the Town in writing that the Consultant has complied with the requirements of this Section.
 - (e) **Relief:** The Consultant acknowledges and agrees that monetary damages may be inadequate for breach of the terms of this section regarding Confidential Information and that the Town shall be entitled to injunctive relief in the event of a breach.
 - (f) **Survival:** All provisions on Confidential Information shall survive termination of this Master Consulting Agreement.
- 13.2 FOIP: All documents submitted to The Town of Canmore are subject to the protection and disclosure provisions of the Freedom of Information and Protection of Privacy Act (Alberta) as amended, revised or substituted from time-to-time. While this Act allows any person a right of access to records in The Town's custody or control, it also prohibits disclosure or provides discretion to refuse disclosure for specified reasons. The Consultant acknowledges that the Town cannot guarantee confidentiality of all information provided to the Town by the Consultant. The Consultant should identify appropriate parts of any proposal or submission as confidential, since this will clearly establish its expectations towards the document, both to The Town as a public body and to the Information and Privacy Commissioner in any review of or refusal of access. The Town commits to providing the Consultant with notice of requests for disclosure that could engage the Consultant's interests under the FOIP Act. The Town, however, may not be able to meet these expectations in every instance.

14.0 Reporting

- 14.1 The Consultant shall provide to The Town on a timely basis such deliverable or deliverables, or written confirmation of delivery thereof, in respect of the Services as is agreed to by the parties and confirmed in writing. A deliverable may be in any form that is mutually agreed to, including without limitation a design, plan, set of record drawings, or report.

15.0 Intellectual Property

- 15.1 Unless otherwise agreed and confirmed in writing:
- (a) All material, including but not limited to programs, reports, notes, calculations, maps, drawings, photographs, data, forms and other records prepared, created, written or recorded by: (a) the Consultant, or (b) The Town or (c) the Consultant and The Town jointly, in connection with the Services under an Agreement incorporating this Master Consulting Agreement or as a deliverable under such Agreement, will be the property of The Town; accordingly, the Consultant hereby assigns to The Town all rights, title and interest it may have from time to time in such material and copyright therein will vest in The Town.
 - (b) During the term of the relevant Agreement, the Consultant shall have a non-exclusive, non-transferable license to use such material for the sole purpose of providing and completing the Services. Upon the termination or completion of a specific project or Agreement, the Consultant will promptly return such material to The Town whether completed or not. Notwithstanding the preceding sentence, the Consultant may retain for archival purposes a single copy of each item of such material; and
 - (c) Every invention, discovery or improvement developed by the Consultant in the course of, or in connection with, performing the Services under an Agreement where the invention, discovery or improvement has been initiated or directed or specifically requested by The Town, will be the property of The Town, accordingly, the Consultant hereby assigns any intellectual property right to any such invention, discovery or improvement developed to The Town.
- 15.2 The parties acknowledge and confirm that any intellectual property that was developed prior to the relevant Agreement, or that was developed by the Consultant independently from such Agreement with The Town, or that was developed at the sole initiative of the Consultant without any prior

initiation or direction or request from The Town, will be outside the scope of section 15.1.

- 15.3 In the event Consultant's documents are subsequently reused or modified in any material respect without the prior written consent of the Consultant, The Town agrees to indemnify the Consultant from any claims resulting from such unauthorized reuse or modification.
- 15.4 The parties acknowledge that any electronic files provided by Consultant are largely for ease of use and convenience. However, as the Consultant is not able to ensure the authenticity or integrity or completeness of information provided in electronic format, the parties agree that in the event of any inconsistency between information provided by way of hard copies that have been stamped or sealed or both and information in electronic files, the information in hard copy that has been stamped or sealed or both will govern.
- 15.5 If the Consultant needs access to data of The Town in order to carry out a specific project described in detail in an Agreement incorporating this Master Consulting Agreement, The Town will grant a non-exclusive, non-assignable license to have access to and to use the data in accordance with Article 31.

16.0 Records and Audit

- 16.1 To support all charges invoiced to The Town with respect to Services performed hereunder, the Consultant, for a period of seven (7) years after the performance of such Services, shall maintain a true and correct set of records pertaining thereto including, without limiting the generality of the foregoing the date and time worked, the location of the Services and the type of Services and invoices issued to The Town. The Consultant shall allow The Town to audit such records upon reasonable request PROVIDED HOWEVER, that the Consultant shall have the right to exclude any trade secrets, formulas, or processes from any such audit. The Consultant must require each of its subconsultants to keep such records which similarly are to be open to inspection and audit by or on behalf of The Town.

17.0 Termination of an Agreement

- 17.1 Each Agreement will continue in full force and effect from the date it is effective until terminated by either party on at least thirty (30) days written notice to the other. The termination of an Agreement will not relieve either party of its respective obligations and liabilities arising from or incidental to Services performed prior to the time of such termination. An Agreement will continue in force for so long as is required to complete Services agreed to prior to the receipt of the notice of cancellation and to allow The Town to exercise its rights with respect to such Services.

18.0 Credit Checks

- 18.1 The Consultant agrees to authorize credit checks by The Town, in accordance with standard Town policy. To enable The Town to initiate such credit checks, a "Request for Authorization" form, when received, is to be completed and returned to The Town within twenty-four (24) hours of receipt by the Consultant.

19.0 Insolvency

- 19.1 Should the Consultant become insolvent or make an assignment for the benefit of creditors or be adjudicated bankrupt or admit in writing its inability to pay its debts generally as the same became due or should any proceedings be instituted by the Consultant under any provincial, territorial or federal law for relief of debtors or for the appointment of a receiver, trustee or liquidator of the Consultant, or should a voluntary petition in bankruptcy or for a reorganization or for an adjudication of the Consultant as an insolvent or a bankrupt be filed, or should an attachment be levied upon the Consultant's equipment, then upon the occurrence of any such event The Town will have the right to cancel any Agreement and to terminate immediately all Services then being performed by the Consultant.

20.0 Assignment or Subconsulting

- 20.1 The Consultant must not assign any obligations under any Agreement, or any part thereof, including any remuneration due to it, to any third party without the prior written consent of The Town, which consent will not be unreasonably withheld or conditioned. The assignment of any Agreement, if so permitted by The Town, or the subconsulting of any Services to be performed under the Agreement, will not relieve the Consultant of its obligations. The Consultant shall make commercially reasonable efforts to have its subconsultants, if any; comply with the terms and conditions of each Agreement.

21.0 Successors and Assigns

- 21.1 Each Agreement will be binding upon and endure to the benefit of the parties and their respective heirs, executors, administrators, receivers, trustees, successors, and approved assigns.

22.0 Legislation and Jurisdiction

- 22.1 Each Agreement and the Services contemplated under each work order or request for services and the applicable Award Letter, will be subject to all relevant legislation, regulations, codes, and rules, whether federal, provincial or municipal pertaining to the location or locations where the Services are performed or furnished. In the event any provision of any Agreement incorporating this Master Consulting Agreement is found to be contrary to, or inconsistent with, any such legislation, regulation, code or rule, such provision will be conclusively deemed to be modified accordingly, but in all other respects the remainder of the Agreement will continue in full force and effect. It is agreed that any legal interpretation given to an Agreement will be governed by the laws in force in the Province of Alberta.

- 22.2 No action at law or in equity may be commenced or continued on any matter arising out of or connected with an Agreement other than in a court of competent jurisdiction in the Province of Alberta or on appeal to the Federal Court of Appeal or the Supreme Court of Canada.

23.0 Waiver

- 23.1 No previous waiver or course of dealing will affect either party's right to strict performance of any Agreement, or any work order or request for services and the applicable Purchaser Order.

24.0 Work Site Safety

- 24.1 Work site safety is of paramount concern to The Town of Canmore. Therefore, for those projects where the Consultant carries out on-site work, the Consultant, prior to conducting any such work, should schedule a meeting with the project manager for The Town to discuss and be briefed on safety issues, such as the Certificate of Recognition Program ("COR") or equivalent safety accreditation, the assignment of prime contractor status and any other such issues as necessary for the safe completion of the project.

24.2 Failure of the Consultant to comply with any and all relevant safety legislation may result in the immediate suspension or termination of any Agreement.

25.0 Notices

25.1 All communications and notices required or permitted to be given under an Agreement, unless otherwise specifically provided for, must be given in writing and faxed to a party at the number set out below, mailed (postage prepaid), or delivered to that party at its address as follows:

For the Town:

Town of Canmore
902 – 7th Avenue
Canmore, Alberta
T1W3K1

Attention: _____
Fax: _____

For the Consultant:

Attention: _____
Fax: _____

Any notice or other communication given by fax or delivery will be deemed to have been given as at the commencement of the next following business day, and any notice or other communication given by prepaid mail will be deemed to have been received on the fifth (5th) business day following deposit in the mail. In times of labour strikes or slow-downs affecting the mail delivery, notice will be effective only if delivered or given by other effective means or upon actual receipt. Any party may change its address for service by notice served as set out above.

26.0 Supercession

26.1 The Agreement between the parties for a particular project may supersede the Master Consulting Agreement.

27.0 Alteration of Terms

The parties hereto may at any time, and from time to time, alter or vary the terms of any Agreement including the obligations of the Consultant, by mutual agreement confirmed in writing.

28.0 Interpretation

28.1 Whenever in this document or the relevant Agreement the singular or masculine is to be construed as meaning plural or feminine or body politic or corporate or vice versa, as the context so requires.

29.0 Execution of Agreement

29.1 If the Consultant has a seal, the Consultant should include affixing its seal along with the signing

of the Agreement by its duly authorized representatives.

- 29.2 If the Consultant does not have a seal, or if the seal is not available, the Consultant should provide reasonable documentation to confirm that the person or persons signing on its behalf has or have the authority to bind the Consultant as a legal entity. An affidavit of authority together with an affidavit of execution will normally constitute reasonable confirming documentation.

30.0 Dispute Resolution

Should a dispute arise between the parties related to this Agreement, the Parties commit to beginning with good faith negotiation followed by mediation as means to resolve the dispute before proceeding to any adjudicated process, including litigation, arbitration or tribunals. Except for the purposes of preserving a limitation period or obtaining an appropriate interim order or remedy where reasonably necessary, unless otherwise agreed to in writing by the two parties, evidence of unsuccessful negotiations and mediation shall be a condition precedent to the bringing of any legal proceedings to arbitration, court or tribunals. Unless otherwise agreed to in writing by both parties, mediation will be in accordance with the procedures of the ADR Institute of Canada, using as mediator a third party neutral person either as mutually agreed to by the parties, or if the parties are unable to agree as selected by the Institute.

31.0 Licensing of Town Data

- 31.1 If the Consultant needs access to data of The Town in order to carry out a specific project described in detail in an Agreement incorporating this Master Consulting Agreement, The Town will grant a non-exclusive, non-assignable license to have access to and to use the data in accordance with one or the other of the following subsections, at the sole discretion of The Town:

- (a) the sections that follow in this Article 31, or
- (b) a detailed Data Licence Agreement Schedule that is attached and incorporated as part of the Agreement for a specific project.

- 31.2 The scope of work in the Agreement for each project should specify which of the following applies for that project:

- (c) no data of The Town is needed;
- (d) data of The Town is needed, and it will be licensed in accordance with this Article 31, or
- (e) data of The Town is needed, and it will be licensed in accordance with a Data License Agreement to be attached as a schedule to the Agreement for the project.

- 31.3 Subject to the terms of the Agreement, The Town grants and the Consultant accepts a non-exclusive, non-assignable license for access to and use of data of The Town for the project identified in the Agreement, in accordance with the terms and conditions set out in the Agreement, including the scope of work and this Master Consulting Agreement.

- 31.4 The Consultant may only use the data of The Town necessary for the project identified in the Agreement (the "Data"), and only for the purpose of the project. Any documentation provided by The Town may be used only as needed in accordance with the authorized use of the Data.

- 31.5 The Consultant acknowledges that there are no limits to the number of licenses or rights that The Town may grant to third parties in respect of the Data.

- 31.6 Title to and ownership of the Data and any modifications made to the Data will at all times remain with The Town.

- 31.7 The Consultant does not have any right or interest in the Data except as specifically provided in the Agreement.

- 31.8 The Consultant is entitled to make one copy of the Data for back-up, disaster recovery, or archival purposes, so long as each copy remains under the Consultant's control and is used only to replace an operating copy if the operating copy is destroyed or becomes unusable or inaccessible for any legitimate reason. The Consultant shall maintain and place a suitable copyright notice in favour of The Town on any report or other document that contains a complete copy of, or substantially all of, the Data. The Consultant shall not remove such copyright notice, or any other copyright notice, from the Data.
- 31.9 Warranty Regarding Data
- (a) Warranty regarding Data – The Town does not represent or warrant that the Data will be correct or that use of the Data will be uninterrupted or error free.
 - (b) The Town disclaims any and all warranties and conditions concerning the Data, including any and all warranties and conditions of merchantability and fitness for any particular purpose, performance, and any and all warranties or implied warranties that might arise during the use of the Data. This section 32.9 sets out the entire extent of all warranties and conditions in respect of the Data.
- 31.10 On termination of this Agreement for cause or upon the expiry of this Agreement, the Licensee must promptly discontinue use of the product and documentation, and return the same to The Town or in the alternative certify to The Town in writing as to such destruction of the product and documentation.

IN WITNESS WHEREOF the parties hereto have executed this document as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

THE TOWN OF CANMORE

Manager Name

Manager of Department

Project/Procurement Lead Name

Position

THE CONSULTANT

Per: _____

Print Name: _____

Print Title: _____

Per: _____

Print Name: _____

Print Title: _____