



# Options for Achieving High Performing Resilient Buildings in Canmore

## Request for Proposal (RFP)

### For Consulting Services

**SUMMARY:**

The Town of Canmore (the Town) is seeking a consultant to provide recommendations and supporting analysis for options to achieve higher levels of energy efficiency in new residential and commercial buildings.

The consultant must have expertise with municipal planning, the National Energy Code for Buildings 2020 and National Building Code 2020, and demonstrated experience with green building policy, design and construction for energy efficiency and climate change adaptation and resilience. The consultant also needs to have detailed understanding of the Safety Codes Act and building code bylaws, the Municipal Government Act and a municipality's legal authority within the Province of Alberta.

There is a budget of \$33,500 for this project.

<b>REFERENCE NUMBER:</b>	<b>7251</b>
<b>CLOSING DATE:</b>	<b>March 20, 2024</b>
<b>CLOSING TIME:</b>	<b>14:00:00 Mountain Time Zone</b>
<b>DATE ISSUED:</b>	<b>February 28, 2024</b>
<b>NOTE:</b>	<b>RESPONSES WILL NOT BE OPENED PUBLICLY</b>



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## 1.0 INSTRUCTIONS FOR RESPONDING TO THIS REQUEST FOR PROPOSALS

- 1.1.1 Closing Date and Time: Proposals must be received not later than 14:00:00 hours Mountain Time Zone** (Canmore local time) on **Wednesday, March 20, 2024**
- 1.1.2** Proponents shall submit their proposal to the Town of Canmore by email to the attention of Amy Fournier, Energy and Climate Action Coordinator, at [amy.fournier@canmore.ca](mailto:amy.fournier@canmore.ca). The proposal document is to be in PDF format only (.pdf) and all components shall be formatted and combined into one file that is attached to the email submission. Responses by facsimile will not be accepted.
- 1.1.3 RFP Contact Person:**  
For clarification or additional information, Proponents shall **only** contact the person listed below.  
  
Amy Fournier, Energy and Climate Action Coordinator, at  
Email – [amy.fournier@canmore.ca](mailto:amy.fournier@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 (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 complete a report and recommendations for options to achieve higher levels of energy efficiency in new residential and commercial buildings.

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 noncompliant;
- 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 noncompliance 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 noncompliance 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 two 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 Proponent 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** Proponents in custody or control of records provided to the Proponent by the Town of Canmore records shall abide by the privacy and non-disclosure provisions of the *Freedom of Information and Protection of Privacy Act* respecting these records as if this act applied directly to the Proponent, and shall generally assist the Town in its own compliance with the *Freedom of Information and Protection of Privacy Act* respecting records provided to the Proponent.

## **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*.

**2.10.2** 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 deliverable for this project, a final report with recommendations and supporting analysis, should be provided to the Town by June 8, 2024

**2.13.2** The Town reserves the right to extend the above-noted timelines to complete any work in progress.

**2.13.3** Additional award periods will generally be based on mutual agreement between The Town and the Successful Proponent. The Town reserves the right to negotiate changes to existing agreements for the work to reflect current conditions at the time of extension or renewal.

## **2.14 FORM OF CONTRACT**

**2.14.1** The Town of Canmore will be issuing a Letter of Award and Consulting Service Agreement (see Appendix C) to the Successful Proponent to deliver the work described within this RFP.

## **2.15 SERVICES TERMS AND CONDITIONS**

**2.15.1** Final agreements with the successful Proponent may consist of any number of the following documents, including all amendments thereto:

- Consulting Service Agreement
- Request for Proposal
- Addenda
- Letter to Successful Proponent
- Statement of Scope
- Technical & Fee Proposal
- Letter of Award

**2.15.2** Any inconsistent or conflicting provisions contained within the documents forming the Agreement shall be resolved in the following order:

- Letter of Award
- Consulting Service Agreement
- Technical & Fee Proposal

- Addenda
- Request for Proposal

## **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** The Successful Proponent will be expected to deliver the work. Neither the contract nor any rights or obligations to perform the work under the contract will be assignable by the Successful Proponent without the prior written consent of the Town of Canmore. The granting of such consent shall be within the sole and unfettered discretion of the Town of Canmore, and based on the terms of this consent may not relieve the Successful Proponent of liability to perform the work. Proponents who anticipate requesting to assign some or all of the contract must notify the Town as part of their responses to this RFP.

## **2.18 DEPOSITS**

**2.18.1** The Town of Canmore will consider the payment of a deposit to the Successful Proponent for the scope of work in this RFP. Maximum percentage for a deposit that the Town of Canmore will consider is 25%. Include a payment schedule indicating the percentages and milestones as an attachment to the proposal if applicable.

## **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 TWO MILLION DOLLARS (\$2,000,000) 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) If in-person meetings are part of the proposed approach, 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 ONE MILLION DOLLARS (\$1,000,000) 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 insurance for the above-required 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 INFORMATION SECURITY STANDARDS**

- 2.22.1** Successful Proponents that provide information technology or web-related services to the Town of Canmore as part of their work on the Project shall be required to comply with the Town of Canmore's Information Security Standards as updated from time to time. These standards may overlap with and are additional to the functional and requirements of the specific Project. The Town of Canmore may require Proponents to demonstrate compliance with these standards as part of the Town's review and evaluation of proposals, quotations and qualifications. If not appended hereto, it is the Proponent's responsibility to request the Information Security Standards and access their ability to comply as part of responding to this request.

## **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	Options for Achieving High Performing Resilient Buildings
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 Letter or Award and Consulting Service Agreement for the report and recommendations.

### 3.2 PROJECT DESCRIPTION/DESCRIPTION OF NEED

3.2.1 In 2018, the Town of Canmore adopted a Climate Action Plan and targets to reduce greenhouse gas (GHG) emissions by 30% by 2030 and 80% 2050, compared to 2015 levels. According to the Climate Action Plan, most GHG emissions come from natural gas and electricity consumption in residential, commercial, and institutional buildings. As Canmore is expected to continue to experience significant growth, the Town would like to determine how to most effectively influence new construction practices to make all buildings more energy efficient, reduce ongoing operating costs, reduce GHGs, and be more resilient to the impacts of climate change.

In 2022, the federal government released the tiered 2020 National Building Code (NBC) and National Energy Code for Buildings (NECB), with a goal that provinces and territories will adopt the highest tiers (equivalent to “net-zero energy ready”) by 2030. The Province of Alberta has currently adopted Tier 1 (generally equivalent to the previous code) and hasn't committed to a timeline for phasing in the higher tiers. New buildings constructed to Tier 1, and even Tier 2, will continue to increase the amount of GHGs produced by the building sector at a rate that makes Canmore's community emission reduction targets unattainable.

The Town is seeking a consultant to determine the most effective and achievable options to ensure that private development achieves a higher level of energy performance, and resilience to the impacts of a changing climate, at a more ambitious timeline than what can be achieved by the current provincial building code.

### 3.3 PROJECT SITE

3.3.1 This project can be completed as a desktop study.

### 3.4 SCOPE OVERVIEW/SCOPE OF SERVICES

#### 3.4.1 GENERAL SCOPE OF WORK

The main deliverable of this project is a report that provides four to six recommendations for the Town to encourage, incentivize and/or require higher levels of energy efficiency in new residential and commercial

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buildings. These recommendations need to be actionable, effective, and within the scope of municipal legal authority.

The budget for this project is \$33,500.

### 3.4.2 DUTIES, RESPONSIBILITIES AND DELIVERABLES

The Town will look to the consultant to propose how to most effectively undertake this work, however, the Town expects at a minimum, that the consultant will:

1. Familiarize themselves with Town of Canmore's policies, bylaws and tools, which include, but are not limited to, the Building Code Bylaw, Land Use Bylaw, Green Building Regulation, Architectural Guidelines, Sustainability Screening Report, Engineering Design and Construction Guidelines, and Area Structure Plans and Area Redevelopment Plans. The consultant should also familiarize themselves with planning work underway, including the creation of an Area Redevelopment Plan for Downtown ("Connect Downtown").
2. Provide four to six actionable and achievable recommendations for changes to the Town's existing bylaws/regulations, policies, guidelines, enforcement, and/or internal processes that would improve energy performance and climate change resilience in the residential, commercial, and institutional building sector. The Town prefers to align to NBC/NECB 2020 and for buildings to, at a minimum, achieve the next highest tier compared to the base code of the day.
3. Provide an analysis to support each recommendation that includes:
  - a. Any required changes in Town programs, bylaws or policies needed to implement the recommendations.
  - b. Impact on Town staff and resources required for the Town to implement.
  - c. Any additional value-add analysis/modeling that would support the recommendation (e.g., impacts on GHG emissions, construction cost, embodied carbon impact, climate resilience and adaptation co-benefits, etc.).
  - d. Documentation of all assumptions utilized in the analysis (e.g. change in energy cost over time, carbon intensity of the electricity grid, etc.).
  - e. Legal research and opinion on alignment of the recommendations with legislation and case law, where enabled by the proponent's qualifications.
  - f. Input from local developers, builders, architects, mechanical engineers, and energy advisors in the development of the proposed recommendations for higher energy performance in private development, with their feedback incorporated into the final report.

## 3.5 ANTICIPATED PROJECT SCHEDULE

- 3.5.1 The anticipated start date of the Project is April 8, 2024. The final report should be provided to the Town by June 8, 2024.

**END OF SECTION 3.0**

## 4.0 RESPONSE REQUIREMENTS AND EVALUATION CRITERIA

### 4.1 FORMAT AND OUTLINE OF RESPONSES

Electronic RFP responses are to be on 8.5” x 11” size pages in PDF (.pdf) format only and all components shall be formatted and combined into one file that is inserted into the email submission. The submission must be no longer than 14 pages. Mandatory Requirements and Resumes are excluded from the 14 page maximum and can be attached as additional appendices.

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

### 4.2 PROPOSAL SUBMISSION REQUIREMENTS

Proponents are requested to submit a proposal containing the following:

#### A. Mandatory Requirements:

- A1 Signed signature and waiver sheet.
- A2 Signed addendum (addenda) if applicable.
- A3 Insurance: Provide evidence from your insurance company confirming your ability to secure insurance as described in Section 2.20.
- A4 WCB: Provide evidence of WCB coverage as described in Section 2.20 or a rationale as to why this is not required.

#### B. Corporate Overview and Relevant Experience (two pages maximum):

- B1 Summary of the relevant resources and capabilities of the organization.
- B2 Experience conducting similar projects.
- B3 Any additional capabilities and value-added services that will be available to the Town, including any legal training and license to practice law.

#### C. The Project Organization (two pages maximum):

- C1 Team structure.
- C2 Roles and responsibilities for the proposed team structure.
- C3 Proposed resources for each position.

#### D. Understanding of Requirements (one page maximum):

- D1 Overview of the consultant’s understanding of the Town’s requirements.

#### E. Methodology and Workplan (six pages maximum):

- E1 Time/involvement expected from Town staff.
- E2 Information needed from Town staff.
- E3 Outline of how the local building industry will be consulted and who will lead that work.
- E4 Any proposed alteration to the Scope of Services requested by the Town in Section 3 of this RFP.
- E5 A rough workplan, including:
  - i. Proposed activities.
  - ii. Start and finish dates for each activity.
  - iii. Effort estimates and resources for each activity.
  - iv. Whether the work will be completed as a desktop study and any in-person meetings/activities
  - v. Progress update approach (e.g., meeting frequency, etc.).
  - vi. Deliverables and anticipated deliverable dates. The project should be complete by June 8, 2024



**F. Resumes (two pages maximum for each resume):**

- F1 Experience of each proposed resource as it relates to the scope of services and required consultant experience and expertise required by the Town.
- F2 Involvement in projects similar in scope to this project.

**G. References**

- G1 Three references from relevant projects (ideally municipalities).
  - i. Organization name and contact information (name, phone number and email).
  - ii. Project timing and duration.
  - iii. Overview of the scope of work and deliverables.

**H. Detailed Price Proposal**

- H1 Costs for each deliverable/aspect of the scope of services required by the Town.
- H2 Hourly rates for each proposed resource.
- H3 Estimates of any travel expenses and disbursements.
- H4 Any value-added deliverables.

**4.3 EVALUATION PROCESS**

**4.3.1** Selection of the Successful Proponent 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.

<b>Evaluation Criteria</b>	<b>Evaluation</b>
A. Mandatory Requirements	Pass/Fail
B. Corporate Overview and Relevant Experience	25%
C. The Project Organization	5%
D. Understanding of Requirements	15%
E. Methodology and Workplan	20%
F. Resumes	10%
G. References	10%
H. Detailed Price Proposal	15%

**4.3.2** 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** 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**



**Request for Proposal – Achieving High Performing Resilient Buildings**

**Reference Number: 7251**



**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.

**4.6 RFP SCHEDULE**

The following schedule has been established for this RFP:

- |   |                   |
|---|-------------------|
| • RFP issued on Town website/Alberta Purchasing Connection  | February 28, 2024 |
| • Last day to submit questions to Town of Canmore designate | March 11, 2024    |
| • Last day for Town of Canmore to issue final addendum      | March 13, 2024    |
| • RFP closing date  | March 20, 2024    |
| • RFP evaluation period                                     | March 27, 2024    |
| • Letter of award to be issued to Successful Proponent      | March 28, 2024    |
| • Issue contract/purchase order to Successful Proponent     | April 8, 2024     |

**END OF SECTION 4.0**

## **5.0 SIGNATURE, ACKNOWLEDGMENT AND WAIVER SHEET**

1. By signing below, the Proponent hereby acknowledges and agrees as follows:
  - (a) Prior to submitting its response to this RFP, the Proponent has obtained from the Town of Canmore and thoroughly reviewed the entirety of the RFP including all addendums hereto and documents incorporated by reference into this RFP.
  - (b) The Proponent has thoroughly reviewed, understands and agrees to be bound by all terms and conditions of this RFP including those in all addendums hereto and documents incorporated by reference into this RFP, unless otherwise waived by the Town of Canmore in its sole discretion and confirmed in writing. The Proponent hereby waives any rights or claims that it was not aware of any document incorporated by reference into this RFP.
  - (c) The Proponent's representative signing below has the full authority to represent the Proponent in all matters relating to the RFP and bind the Proponent to the terms and conditions of this RFP.

**Request for Proposal – Achieving High Performing Resilient Buildings**

**Reference Number: 7251**



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

**Notes to Signatories:**

Incorporated Proponents should affix a corporate seal to the signature sheet. If an incorporated Proponent does not affix a corporate seal, the Town of Canmore reserves the right to request documentation confirming corporate signing authority in the form of a director’s resolution, evidence of current registered officers, or other corporate record.

Unincorporated Proponents must submit proposals signed by individual or legal entity with capacity to execute legal documents and bind the Proponent. The Town of Canmore reserves the right to request documentation confirming individual identities and authority of the signatory to represent the Proponent.



## 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 the Report and Recommendations for Options for Achieving High Performing Resilient Buildings 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 – CONSULTING SERVICES AGREEMENT TEMPLATE



[Insert Project Name Here]

---

### CONSULTING SERVICES AGREEMENT (this “Agreement”)

Made the [ ] day of [ ], 20 [ ]

Between:

**8.1.1.1 THE TOWN OF CANMORE**

8.1.1.2 A municipal corporation under the Alberta *Municipal Government Act*

8.1.1.3 (the “Owner”)  
-and-

8.1.1.4 [CONSULTANT’S LEGAL NAME]  
[an individual resident of \_\_\_ / a corporation incorporated under \_\_\_ / other legal entity type]

(the “Consultant”)

Each a “Party” and collectively the “Parties” to this Agreement

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

<b>Article 1 THE PROJECT</b> .....	1
<b>Article 2 THE TERM</b> .....	1
<b>Article 3 THE SERVICES</b> .....	1
<b>Article 4 PAYMENT</b> .....	1
<b>Article 5 INVOICING</b> .....	3
<b>Article 6 CHANGES TO SERVICES</b> .....	4
<b>Article 7 INDEPENDENT CONTRACTOR RELATIONSHIP</b> .....	4
<b>Article 8 REPRESENTATIONS AND WARRANTIES</b> .....	4
<b>Article 9 LAWS AND POLICIES</b> .....	5
<b>Article 10</b> .....	<b>INFORMATION AND PRIVACY</b>
.....	5
<b>Article 11</b> .....	<b>CONFIDENTIALITY</b>
.....	5
<b>Article 12</b> .....	<b>MATERIALS OWNERSHIP AND INTELLECTUAL PROPERTY</b>
.....	6
<b>Article 13</b> .....	<b>INSURANCE</b>
.....	7
<b>Article 14</b> .....	<b>INDEMNITY</b>
.....	8
<b>Article 15</b> .....	<b>TERMINATION</b>
.....	8
<b>Article 16</b> .....	<b>REPRESENTATIVES AND NOTICES</b>
.....	9
<b>Article 17</b> .....	<b>AGREEMENT DOCUMENTS</b>
.....	10
<b>Article 18</b> .....	<b>MISCELANEOUS</b>
.....	11

## 8.2 THE PROJECT

The Project for which the Consultant is engaged consists of [insert brief description] (the “Project”).

## 8.3 THE TERM

The term of this Agreement (the “Term”) shall begin on the date of this Agreement and continue until the \_\_\_ day of \_\_\_\_\_, 20\_\_.

-OR-

[The term of this Agreement (the “Term”) shall begin on the date of this Agreement and continue until the completion of Services, subject to earlier termination as provided in this Agreement.]

## 8.4 THE SERVICES

The Consultant shall provide the services and deliverables described in in **Schedule A** and such further related or similar services as agreed to from time to time (the “Services”).

The Consultant shall perform the Services:

In accordance with the provisions of this Agreement and any reasonable directions from the Owner; and

In a timely, workerlike manner, in accordance with the highest applicable professional or industry standards.

## 8.5 PAYMENT

**Currency:** All dollar amounts stated in this Agreement are in Canadian dollars.

**Payment model:** In consideration of the provision of the Services by the Consultant, the Owner shall pay the Consultant in the following manner.

### Fixed Fee:

The Owner shall pay the Consultant for the Services on a fixed fee basis. The amount of the fees shall be [DOLLAR AMOUNT (\$x)]. This fixed amount shall be inclusive of all time and materials used in providing the Services.

-OR-

### Hourly rates

The Owner shall pay the Consultant on an hourly basis for the Services at the following rates:

The Consultant’s hourly rates [shall not be increased during the Term of this Agreement / shall only be increased with [NUMBER (X)] days prior written notice to the Owner and no more than [X] times during the Term of this Agreement ].

The Consultant shall not charge overtime or markups on the hourly rates herein with the Owner’s prior written consent.

The maximum amount of fees for time charged by the Consultant shall not exceed [NUMBER (\$X)] [ in total for the project / per month / per year].

### Expenses:



In addition to the [ fixed amount / hourly rates], the Consultant shall be entitled to claim reimbursement for allowable expenses. Allowable expenses include:

Any other expenses must be approved by the Owner in writing in advance of the Consultant incurring the expense. All expense claims must be accompanied by receipts evidencing the expense incurred.

-OR-

Time and materials:

The Owner shall pay the Consultant for the Services on a time and material basis.

Calculation of payment for the Consultant's time shall be according to the following hourly rates, which shall remain in effect for the duration of the Term:

[list the consultant's hourly rates. Include multiple rates if the rates differ for the consultant's staff].

The Consultant's hourly rates [shall not be increased during the Term of this Agreement / shall only be increased with [NUMBER (X)] days prior written notice to the Owner and no more than [X] times during the Term of this Agreement ]

The maximum amount of fees for time charged by the Consultant shall not exceed [NUMBER (\$X)] [in total for the project / per month / per year.]

Regarding materials, the Owner shall reimburse the Consultant's actual costs incurred for the following materials used by the Consultant as reasonably necessary to deliver the Services:

The Consultant shall obtain the Owner's written consent prior to the purchase of all materials for which the Consultant intends to claim cost reimbursement.

-OR-

Cost plus

The Owner shall pay the consultant on a cost plus fixed fee basis. . .

-OR-

The Owner shall pay the consultant on a cost plus percentage markup basis . .

Allowable costs for which the Consultant may invoice the Owner include:

-labour costs at hourly rates for . . . .

materials costs for . . .

administrative costs for . . .

The Consultant shall not incur costs above [NUMBER (\$X) per month / per year / in total for the project / without the Owners prior written consent. ]

The maximum amount of fees for time charged by the Consultant shall not exceed [NUMBER (\$X)] [ in total for the project / per month / per year].

## 8.6 INVOICING

**Invoice schedule:** The Consultant shall invoice the Owner for services rendered as follows:

[The Owner shall pay the total amount of the fixed fee to the Consultant in the following installments, with each installment being contingent on the Consultant achieving the corresponding project milestone: [- list the payment schedule and milestones].

-OR-

[ monthly basis / other basis].

-OR-

**Proper invoice:** The Consultant's invoices shall include a detailed breakdown of hours, reimbursable expenses, materials or costs as applicable to the model of compensation provided herein.

**GST:** The Consultant's invoices shall clearly show as separate and the Owner shall be responsible for paying the Goods and Services Tax (GST) and any similar taxes imposed by any governmental authority on amounts payable by the Owner to the Consultant hereinunder. **GST on any holdbacks required by this Agreement will be payable with the release of the holdback.** In no event shall the Owner be responsible for any taxes with respect to the Consultant's income, revenues or property.

**Time to pay:** The Owner shall pay the Consultant within TWENTY EIGHT (28) days of days of a proper invoice, except for any amounts that are disputed by the Owner or any amounts subject to holdbacks provided for in this Agreement.

**Holdbacks:** [Deleted].

The parties acknowledge that the *Prompt Payment and Construction Lien Act*, R.S.A. 2000, c. P-26.4. (the PCCLA) applies due to the Consultant being a regulated professional engineer or architect providing consultative services or work on a construction project. The Consultant's invoices must meet the requirements for a proper invoice under the PCCLA. Payments of the Consultant's invoices shall be subject to a holdback of 10% of the amount payable on the invoice.

**Release of Holdback:** [ Deleted]. The holdback money shall become payable to the Consultant following the expiration of the statutory limitation period for the retention of holdback monies relating to the type of work as set out in the PCCLA, provided that at that time there are no liens filed in respect of work done in relation to the Services under this Agreement, or all liens have been satisfied or discharged. After expiry of the statutory limitation period for the retention of holdback monies, the Consultant shall submit a request to the Owner for release of the holdback accompanied by a statement of the amount claimed and a statutory declaration dated after expiry of the limitation period, showing compliance with the PCCLA as applicable to the Consultant's Services. The start of the limitation period for the retention of the holdback shall be triggered by one of the following events:

Upon completion of all Services to be performed under this Agreement;

If the Consultant is of the opinion that the Contract is substantially performed as defined by the PCCLA, the Consultant may issue and deliver to the Owner a Certificate of Substantial Performance with respect to the Contract. The Certificate of Substantial Performance shall list any deficiencies or outstanding items of work to be completed, the dates for corrections and value of the work to be completed. The Consultant shall further post the Certificate of Substantial Performance as required by the PCCLA.

If the Services to be provided under this Agreement will take longer than one year to complete, then the Consultant may apply for a release of the holdback on an annual basis.

The value of the Services exceeds TEN MILLION DOLLARS (\$10,000,000), in which case the Consultant may apply for a release of the holdback on an annual basis.

**Accounting records:** The Consultant shall maintain complete and accurate records relating to the provision of the Services, including records of time spent, expenses incurred and costs of materials used by the Consultant in delivering the Services, together with proper quotations, invoices and receipts for these costs and expenses. During the Term and for a period of SEVEN (7) years thereafter, upon the Owner’s written request, the Consultant shall allow the Owner or Owner’s representative to inspect and make copies of records and to interview the Consultant’s personnel in connection with the provision of the Services. This obligation to retain and provide access to accounting records shall survive the termination of this Agreement regardless of the cause.

## **8.7 CHANGES TO SERVICES**

**Change Notices:** The Owner may, without invalidating this Agreement, make changes to the scope of the Services by issuing notices to the Consultant (a “**Change Notice**”).

**Consultant’s Response:** When the Owner provides the Consultant with a Change Notice, the Consultant shall have **SEVEN (7)** days from the receipt of such notice to respond to the Owner, giving details of the Consultant’s agreeability or disagreeability to the change in the scope of the Services, and if any of the changes will require adjusting the Consultant’s compensation, timeline for delivery of the Services, or the timelines and budget for the Project.

**Change Order:** The Owner, upon acceptance of the Consultant’s submission in response to a Change Notice, shall issue a written change order providing for the changes in compensation and timelines as applicable (a “**Change Order**”). If the Consultant provides notice within **SEVEN (7)** days as provided above, the Consultant shall not be required to accept the changes to the Services without an agreed-to Change Order.

**Deemed acceptance:** In the event that the Consultant does not provide the Owner with notification of its agreeability or disagreeability to the change within **SEVEN (7) days**, this will be deemed to mean that there is no change to the scope of the Services or that the Consultant accepts the Change Notice without need for a Change Order.

## **8.8 INDEPENDENT CONTRACTOR RELATIONSHIP**

The Consultant is engaged under this Agreement as an independent contractor for the sole purpose of providing the Services. The Consultant shall undertake its duties hereunder as an independent contractor and not as agent or representative of the Owner in any way other than provided herein. Neither the Consultant nor any of the Consultant’s employees shall be regarded as employees or partners of the Owner.

The Consultant shall be solely responsible for all payments, deductions, and remittances required to be made by law in relation to the Consultant’s workforce, including those required for provincial or federal income tax, Employment Insurance, Worker’s Compensation Insurance, the Canada Pension Plan, any other pension or benefit plans.

Nothing contained in this Agreement or in any acts of the Parties shall be deemed to create a partnership relationship between the Consultant and the Owner.

The Consultant shall have no right or authority, express or implied, to act as the Owner’s agent or to commit or obligate the Owner towards other person in any manner whatsoever except to the extent specifically provided through this Agreement or authorized in writing by the Owner.

## **8.9 REPRESENTATIONS AND WARRANTIES**

The Consultant represents and warrants that it has the necessary qualifications, skills and expertise to perform the Services.

Statements regarding qualifications, expertise, skills, and performance of the Services made by the Consultant in its proposal as accepted by the Owner and attached hereto as **Schedule B** (the “**Consultant’s Proposal**”) shall be representations and warranties of the Consultant and form part of this Agreement.

The Consultant declares that it has no pecuniary interest in the business of any other person that would cause, or appear to cause, a conflict of interest in delivering the Services. The Consultant shall not acquire any interest of this nature during the Term of this Agreement without first declaring this interest to the Owner and seeking the Owner’s consent to the same.

The Consultant shall not arrange for any tests or investigations to be carried out in relation to the Project by any persons or businesses that may have a direct or indirect financial interest in the results of those tests or investigations.

#### 8.10 **LAWS AND POLICIES**

The Consultant shall comply with all applicable laws or regulations of all municipal, provincial or federal governmental authorities as applicable to the performance of the Services and this Agreement.

The Consultant shall comply with all official policies, directives and operating procedures of the Town of Canmore as applicable to the Services and brought to the attention of the Consultant by the Owner from time to time (the “**Town Policies**”). Upon request of the Owner, the Consultant shall sign an acknowledgement of having read, understood and undertaken to comply with the Town Policies. **Without limiting the general requirement to comply with Town Policies, where the Services concern information technology or web-related services, the Contractor shall specifically comply with the Town’s Information Security Standards as brought to the Contractor’s attention from time to time.**

The Consultant shall at its own costs apply for and maintain in good standing all licenses, permits and certifications necessary to perform the Consultant’s obligations under this Agreement.

#### 8.11 **INFORMATION AND PRIVACY**

The Consultant acknowledges the *Freedom of Information and Protection of Privacy Act* (Alberta) and other legislation governing the use, collection and disclosure of information by public bodies applies to information that comes into the custody and control of the Owner through the course of this Agreement and to information provided by the Owner to the Consultant. The Consultant acknowledges that information provided to the Owner may be subject to legislated disclosure requirements, including without limitation the name of the Consultant, the terms of this Agreement and the details of payments and services rendered. The Consultant further acknowledges that personal information provided by the Owner to the Consultant may be subject to legislated privacy requirements and agrees to handle information in a manner that supports the Town’s compliance with applicable information and privacy legislation. The Consultant shall not collect, use or disclose any Personal Information under this Agreement except as reasonably required to fulfill its obligations under this Agreement, or as otherwise expressly authorized in writing by the Owner. This term concerning information and privacy obligations shall survive termination of this Agreement regardless of the cause.

#### 8.12 **CONFIDENTIALITY**

**Confidential Information:** From time to time during the Term of this [Agreement], the Owner may disclose or make available to the Consultant either actively or passively, information that is sensitive, private, non-public or proprietary in nature, that the Owner seeks to have treated as confidential by the Consultant (“**Confidential Information**”), including but not limited to:

Business plans, data, statistics, studies, forecasts or analysis;

Professional opinions, interpretations, and advice to or from officials;

Marketing, sales, commercial, and customer information;

Information about the Owner's human resources;

Information that would reasonably be considered confidential or which is subject to reasonable efforts to keep confidential, even if not so marked;

Drawings and visual depictions;

Trade secrets, unpatented inventions, know-how and other intellectual property subject to efforts to keep confidential;

Information that the Owner may or must refuse to disclose under the *Freedom of Information and Protection of Privacy Act*;

Information belonging to or concerning third parties that the Town must keep private under the *Freedom of Information and Privacy Act* or other laws or legal obligations;

**Exceptions to Confidential Information:** The term "Confidential Information" as used herein shall not include information that, at the time of disclosure:

is generally available to the public other than through a breach of confidentiality on the part of the Consultant ;

is available to the Consultant on a non-confidential basis from a third-party source, provided that such source was not prohibited from disclosing such Confidential Information to the Consultant by a legal, contractual or fiduciary obligation;

was already known by or in the possession of the Consultant prior to being disclosed by the Owner;

is required to be disclosed under the *Freedom of Information and Protection of Privacy Act* or by order of a court or governmental authority of competent jurisdiction.

**Non-Disclosure:** At all times during the Term of this Agreement and after termination of the Agreement, the Consultant shall:

protect and keep the Confidential Information strictly confidential using best efforts;

not use the Confidential Information, or permit it to be accessed or used, for any purpose other than to perform its obligations under this Agreement;

not disclose any Confidential Information to any person other than the Owner's representatives who need to know the Confidential Information to assist the Consultant in performing its obligations under this Agreement.

**Consultant's workforce:** The Consultant shall be responsible for the compliance of its workforce with the confidentiality obligations herein and for any breach of confidentiality on the part of its workforce.

**Return of Confidential Information:** Upon the expiration or termination of this Agreement for any reason, or at any time during the term of this Agreement or any time after the termination of this Agreement, the Consultant shall, at the Owner's request, promptly return or destroy all Confidential Information in its possession, including all copies, extracts and reproductions of Confidential Information, whether in written or electronic form, and certify in writing to the Owner's that all Confidential Information has been returned or destroyed.

**Survival:** This Article of the Agreement concerning confidentiality shall survive termination of this Agreement regardless of the cause.

Ownership of any work, information, records or materials, regardless of form, including any copyrights, trademarks, trade secrets or other intellectual property rights which were owned by the Owner or the Consultant the Effective Date shall remain the property of each Party respectively.

Ownership of all Materials including any associated copyright, patent, trade secret, industrial design or trademark rights created through the performance of this Agreement belongs to the Owner as they are made, prepared, developed, generated, produced.

Ownership of all materials that are made, prepared, developed, produced by the Consultant for the Owner in relation to delivery of the Services shall be the property of the Owner (the “**Owner’s Materials**”) as they are made, prepared, developed or produced. The Owners Materials includes any intellectual property created through the delivery of the Services or performance of this Agreement. The Consultant shall deliver to the Owner all of the Owner’s Materials, whether complete or not, upon termination of this Contract or upon request of the Owner.

Any copyrights, trademarks, trade secrets, or other intellectual property rights owned by the Consultant prior to the Effective Date of this Agreement shall be deemed the property of the Consultant (the “**Consultant’s Materials**”). Where any of the Consultant’s Materials are reproduced or incorporated into the Owner’s Materials, The Consultant hereby grants the Owner a perpetual, irrevocable, non-exclusive, royalty-free license to use, reproduce or distribute those Consultant Materials, for any purpose.

The Consultant shall ensure that its workforce irrevocably waives all intellectual property rights in the Owner’s Materials as necessary to give effect to this Agreement and shall provide the Owner with copies of the waivers on request.

Prior to reproducing or incorporating any third-party copyright materials into the Materials, the Consultant shall obtain written permission from the copyright holder and provide the Owner with copies of the written permissions that are satisfactory to the Owner.

This Article of the Agreement concerning materials ownership and intellectual property shall survive termination of this Agreement regardless of the cause.

#### 8.14 **INSURANCE**

The Consultant shall, at its own cost, at all times during Term of this Agreement carry the following insurance:

Commercial General Liability Insurance with a limit of not less than **[TWO MILLION DOLLARS (\$2,000,000)]** inclusive per occurrence for bodily injury (including death), damage to property including loss of use thereof, and contractual liability.

errors and omissions liability insurance protecting the Owner and its respective servants, agents and employees against any loss or damages arising out of the provision of professional services rendered by the Consultant and its respective servants, agents and employees pursuant to this Agreement. Such insurance shall not be less than **[ONE MILLION DOLLARS (\$1,000,000)]** aggregate per year and **[1 MILLION DOLLARS (\$1,000,000)]** for each claim.

Liability Insurance for owned and non-owned automobiles with a limit of not less than **[NUMBER MILLION DOLLARS (\$X,000,000)]** inclusive per occurrence.

such other types of insurance as would be carried by a prudent person performing such contract work and as a prudent municipality may from time to time require of its contract service providers.

The Consultant’s insurance policies shall include:

a cross liability and severability of interest clause; and

a waiver of subrogation of the insurer’s rights as against the Owner, the Owner’s insurer, and the Indemnified Party as defined herein.

The Consultant shall on request provide the Owner with certificates of insurance evidencing the insurance coverage specified in this Agreement.

The Consultant shall provide the Owner with at least thirty days notice of any change to its insurer or cancellation of its insurance policies, or any substantial change in insurance policies or coverage that would materially alter the coverage required to be provided by the Consultant under this Agreement.

**Workers Compensation:** The Consultant shall maintain Workers' Compensation Insurance as applicable to the Consultant's workforce in the amount required by the Workers' Compensation Board. In the event the Consultant is performing work as defined in the Occupational Health and Safety Regulations and the Consultant is a proprietor or performs an exempt activity for the purpose of the *Workers' Compensation Act*, then the Consultant shall hold and maintain its own worker's compensation insurance coverage during the Term of this Agreement. Where the *Worker's Compensation Act* (Alberta) is applicable, the Consultant shall upon request provide the Owner with evidence that the Consultant is registered and in good standing with the Worker's Compensation Board.

#### 8.15 **INDEMNITY**

The Consultant shall indemnify and hold harmless the Owner and its officers, directors and employees, from and against any and all claims, demands, losses, liabilities, actions, lawsuits and other proceedings, judgments and awards, and expenses (including legal fees), arising directly or indirectly in relation to any acts, omissions, negligence or willful misconduct of the Consultant, or any of its agents or employees, in connection with this Agreement or the Consultant's Services or work hereunder. The indemnity provided by this term of this Agreement shall survive termination of this Agreement regardless of the cause.

#### 8.16 **TERMINATION**

Either Party may terminate this Agreement through written notice to the other party:

- i. for convenience, by providing the other party with **FORTY FIVE (45)** days notice.
- ii. immediately, if the other Party becomes bankrupt, insolvent, enters any form of creditor protection proceedings, or admits its inability to pay its debts generally as they become due;
- iii. immediately, if the other Party has a receiver, trustee, custodian or similar agent appointed by any court to take charge of the Party's property or business;
- iv. immediately, if the other Party is dissolved or takes any corporation action for the purpose of dissolution or winding-up;
- v. in the event of an uncured Force Majeure event as provided below;
- vi. after having provided the other Party with notice of a material breach of this Agreement (an event of "**Default**") stating a period of **FIFTEEN (15)** days to cure the Default, and the defaulting Party has not or cannot cure the Default within the period stated in the notice, after which the Party that provided notice of Default may terminate this Agreement immediately. If the Default cannot be reasonably cured within the **FIFTEEN (15)** days, then the defaulting party shall within this period commence the cure and provide a plan or schedule to diligently complete the cure, which if not followed to completion shall allow the non-defaulting party to terminate the Agreement.

With respect to termination of this Agreement by the Owner, events of Default on the part of the Consultant shall include but are not limited to:

- i. The Consultant is unable to perform the Services due to the death, physical disability or incapacity of the Consultant's representative or other key workers.



- ii. The Consultant fails to provide the Services according to the standards and requirements of Section 2 of this Agreement;
- iii. The Consultant repeatedly fails to perform its obligations under this Agreement in a timely or satisfactory fashion and thereby materially interfere with the Project schedule or budget, provided that the Owner previously notified the Consultant in writing of one or more failures to perform in a timely or satisfactory fashion and the Consultant failed to correct such prior failures.

Upon termination of this Agreement for any reason, the Owner shall pay the Consultant for all Services performed to the date of termination.

#### 8.17 REPRESENTATIVES AND NOTICES

**Owner’s representative:** The Owner shall designate a representative with respect to the Consultant’s Services to be performed under this Agreement. The Owner’s representative shall have authority to communicate with the Consultant, transmit instructions, receive information from the Consultant and interpret the Owner’s policies and decisions for the purpose of this Agreement. The Owner’s representative shall be:

[name]

[address]

[email]

[phone]

[NTD – the Owner’s representative should be an employee].

**Consultant’s representative:** The Consultant shall designate a qualified individual to act as the Consultant’s representative for the Project to provide the Owner with a single point of contact for communications with the Consultant regarding the delivery of Services on the Project. The Consultant’s representative shall be:

[name]

[address]

[email]

[phone]

**Materiality of the Consultant’s representative:** The Consultant acknowledges that its Proposal was accepted by the Owner having regard to the credentials of the Consultant’s personnel as represented by the Consultant. The Consultant shall not change its representative for the Project without a valid reason and the prior expressed consent of the Owner, acting reasonably.

**Notices:** The Parties shall deliver all notices in writing through one of the following means:

via email to the other Party’s appointed representative as set out above,

via personal delivery to the address of the other Party’s representative as set out above, or, if delivery to this address is not possible then to that Party’s address for service of legal documents;

(iii) via registered mail or courier service that requires a signature for receipt of delivery, sent to the address of the representative set out above, or if delivery to this address is not possible then to that Party’s address for service of legal documents;

**Receipt of Notices:** Notices shall be deemed received as follows:

Notices via email that has been confirmed to have been transmitted shall be deemed received the same day if sent during normal business hours or the next business day if sent after normal business hours.

Notices sent via personal delivery shall be deemed received upon delivery.



Notices sent via registered mail or courier requiring signature for receipt shall be deemed received upon confirmation of delivery by the delivery service.

**Change of address:** The Parties may change their representatives for the Project and their addresses for notice by providing notice according to this section; however, a change in the Consultant’s representative for the Project shall still require the consent of the Owner acting reasonably.

**8.18 AGREEMENT DOCUMENTS**

The following documents shall constitute the entire agreement between the parties and supersede or replace any prior or concurrent negotiations, representations or agreements, whether written or oral:

This Agreement;

Schedule A – the Services;

Schedule B – the Consultant’s Proposal dated [DATE] as accepted by the Owner; and

The Request for Proposal (“RFP”) issued by the Town of Canmore dated [DATE], and any addendums thereto, in response to which the Consultant’s Proposal was submitted.

If there is a conflict within or between any documents that comprise the entire agreement, the order of paramouncy shall be as follows:

The main terms of this Agreement shall prevail over any of the Schedules hereto and over the RFP;

Schedule A (the Services) shall prevail over Schedule B (the Consultant’s Proposal); and

The Consultant’s Proposal shall prevail over the RFP.

8.19 **MISCELANEOUS**

**Force Majeure:** Neither Party shall be liable to the other Party or deemed to have defaulted on or breached this Agreement for any failure or delay in fulfilling its obligations where this failure or delay is caused from acts or circumstances beyond the control of the impacted party, including but not limited to acts of God, floods, fires, earthquakes, explosions, natural disasters, wars, terrorist threats or acts, riots or civil unrest, governmental orders or actions, official states of emergency, embargoes or blockades, strikes and lockouts, and disease epidemics or pandemics including but not limited to novel virus pandemics (collectively “**Force Majeure**”). Market forces and mere shortages in labour or material shall not be considered Force Majeure. In the event of a Force Majeure event, the impacted party shall use diligent efforts to end the failure or delay and to minimize the impact of the Force Majeure Event. If the failure or delay remains uncured for a period of FORTY FIVE (45) days, the other Party may provide written notice of termination of the Agreement effective immediately.

**Further Assurances:** The Parties agree to do all further acts and things as reasonably required to give effect the provisions and intent of this Agreement.

**Amendments:** This Agreement may only be altered or amended by the mutual consent in writing of the Parties hereto.

**Severability:** If any term or provision hereof shall be determined by a court or tribunal of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

**Survival of Terms:** Notwithstanding any other provision of this Agreement, those clauses that provide for survival or which by their nature should survive the termination of this Agreement shall survive the termination of this Agreement.

**Headings:** The headings of paragraphs of this Agreement are inserted for convenience of reference only and shall not in any manner affect the construction or meaning of anything herein contained or govern the rights or liabilities of the Parties hereto.

**Jurisdiction:** This Agreement shall be governed by the laws in the Province of Alberta and the laws of Canada applicable therein. The Parties irrevocably attorn to the exclusive jurisdiction of courts in Alberta.

**Assignment:** Neither Party may assign, transfer or delegate its rights or obligations under this Agreement without the prior written consent of the other party. A change in ownership or control of the Consultant’s legal entity shall be deemed an assignment for this purpose. Any purported assignment or delegation of this Agreement without the required consent shall be deemed null and void.

**Successors and Assigns:** This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns.

**Waivers:** No waiver of any right or remedy under this Agreement shall be effective unless contained in writing by the waiving party. Failure or delay in exercising any right hereunder shall not be deemed a waiver thereof. No single waiver or partial exercise of any right shall preclude any other or further exercise of this right or any other.

**Remedies:** The duties, rights and remedies under this Agreement are cumulative and shall be an addition to and not a substitution for any other duties, rights and remedies available at law or in equity.

**Time of Essence:** Time shall be of the essence of this Agreement.

**Counterparts:** This Agreement may be executed in several counterparts, all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement through their duly authorized officers.

**Owner**

Town of Canmore

Per:

\_\_\_\_\_

[designated officer name and title ]

Per:

\_\_\_\_\_

[designated officer name and title]

**Consultant:**

[Consultant's Legal entity name as appears at the top] [Corporate seal if available]

Per:

\_\_\_\_\_

[Name and Title ]

["I have authority to bind the corporation"]

\_\_\_\_\_

[Witness - if no corporate seal]



**Schedule 'A' – the Services**

**Schedule 'B' – Consultant Proposal**