



REQUEST FOR PROPOSALS
Professional Services for the Municipal Class Environmental
Assessment for the Confederation Drive River Crossing
RFP # 21-PW-020

Requirement:

The Town of Smiths Falls, hereinafter referred to as “the Corporation” is seeking proposals to provide professional services for the “Municipal Class Environmental Assessment (MCEA) for the Confederation Drive River Crossing”, hereinafter referred to as “the Plan”, as described in the terms of reference attached hereto as Annex “A”.

Period of Proposed Contract:

The proposed period of contract will be from the date of award, to the date of final acceptance of deliverables where final acceptance will be receipt of the plan by resolution of Council.

Project Manager:

The services provided will be subject to review and acceptance by the Project Manager hereby identified as the Director of Public Works and Utilities or his designate.

Inquiries:

All inquiries regarding this Request for Proposal (RFP) are to be directed to the Contracting Authority specified herein. Inquiries must be received in writing (email or fax) no later than **November 3, 2021**. All inquiries received, and the answers as provided by the Project Manager will be provided to all proponents by way of written addendum, no later than **November 5, 2021**, without naming the source of the inquiry.

Order of Precedence:

The documents listed below form part of the Request for Proposal (RFP) and will be incorporated into any resulting contract. If there is a discrepancy between the wording of one document and the wording of any other document which appears on the list, the wording of the document which appears first on the list shall take precedence:

Request for Proposal
Project Information and General Terms of Reference - Annex A
Financial Proposal and Contractual Acknowledgement - Annex B
General Conditions - Professional Services - Annex C

Proposal Content:

Your proposal should include a demonstrated understanding of the scope and particulars of the assignment. It is recommended that your submission not exceed fifteen **(15)** single-sided letter size pages, minimum 11-point font, including spreadsheets, which can be submitted in 11" x 17" format. Attachments such as resumes and workplan sheets will not be included in the page count.

The contents of your **Service Proposal** should address the evaluation criteria numbered **1** through **4** inclusive, which will be assessed by the review team and be submitted in this numerical sequence.

1. Experience and Qualifications of Team Members (10 points)

Identify the Project Manager and key team members of the project team to be employed on this assignment, including those from specialist or sub-consultant firms, describe their individual capabilities, relevant experience, respective roles, availability for this project and highlight individual experience with regard to similar work. Resumes should be included where appropriate.

2. Understanding of Objectives (25 points)

Describe your understanding of the assignment, including overall scope and objectives, noting any specific issues that may require attention.

Note: Responses that incorporate excessive blocks of text that have been copied directly from the RFP will not be regarded as demonstrating an understanding of the requirement.

3. Quality of Approach and Methodology (25 points)

Describe the approach and methodology to be followed in completing all aspects of the assignment in order to achieve the stated project objectives.

4. Proposed Work Plan, Schedule and Level of Effort (10 points)

Provide a work plan and schedule, including a breakdown of the major tasks, and the level of effort of the individual team members in sufficient detail to allow a complete understanding as to how and by whom the work is to be carried out

(Note 1, that although the "person day allocations" are often included within the sealed financial proposal, the Corporation prefers that a copy, without financial details such as per diem rates,

be included in your service proposal, so that the level of effort can be clearly determined and may be evaluated at this stage.)

(Note 2, In this section please comment on any funding that may be available to help subsidize the costs of this proposal.)

Pass Grade

Only proposals that meet or exceed a score of **70 percent** on evaluation criteria numbered **1 to 4 inclusive (49 out of 70)** at this stage of the evaluation will be considered further. Proposals that do not meet the minimum score required will be deemed non-compliant, and the financial proposal will remain unopened.

Financial Proposal (30 points)

In a **SEPARATE SEALED** envelope, clearly identified as **Financial Proposal**, and using Annex B which is attached for that purpose, the Consultant is to provide a total upset limit price, to include all professional fees, disbursements and taxes, to complete this assignment in accordance with the Services detailed herein and in the Consultant's proposal. This financial proposal is to be broken down by category with expected timing identified in order to allow for budgetary control.

Although four **(4)** copies of the Service Proposal are required, only **two (2)** copies of the Financial Proposal are required. In order to allocate points for Financial, a "**Benchmark Price**" will be determined by taking the average "**Total Upset Limit Price**" from all of the proposals received. Points will be awarded based on the following table:

Points Awarded when Bid Price is compared to Benchmark Price

Less than 105%	100%	of points awarded = 50 points
105 to less than 110%	90%	of points awarded = 45 points
110 to less than 115%	80%	of points awarded = 40 points
115 to less than 120%	70%	of points awarded = 35 points
120 to less than 125%	60%	of points awarded = 30 points
125 to less than 130%	50%	of points awarded = 25 points
130 to less than 135%	40%	of points awarded = 20 points
135 to less than 140%	30%	of points awarded = 15 points
140 to less than 145%	20%	of points awarded = 10 points
145 to less than 150%	10%	of points awarded = 5 points
150 and above	0%	of points awarded = 0 points

General Conditions - Professional Services:

As provided for under Contractual Acknowledgement of Annex B, the Consultant must certify acceptance of the General Conditions - Professional Services which are attached as Annex C, which shall form part of and be incorporated into the proposed contract.

Basis of Selection:

The Project Manager intends to recommend the appointment of Consultant on the basis of “**best overall value**” to the Corporation as determined by the proposal which attains the highest score out of the 100 points available based on the evaluation criteria. The Consultant appointment is subject to approval by the Town of Smiths Falls in accordance with the provisions of the Policies Respecting the Procurement of Goods and Services (By-Law 7850-2004 as amended).

Selection Process:

An evaluation team will review all proposals received and score the proposals using a “**consensus**” approach, in relation to the criteria and points, which are identified. An award may be made solely on the basis of the proposal submission, without a meeting with the Consultant. However, one or more Consultants may be invited to attend a formal interview with the evaluation team, or to provide written clarification on their proposal. This formal interview, if applicable would be scheduled within the two weeks following closing.

Proposal Validity:

Proposals shall remain valid and open for acceptance by the Corporation for a period of sixty (60) calendar days, following the due date for receipt of proposals.

Municipal Rights and Options:

The municipality, in their sole discretion, reserves the following rights:

- Supplement, add to, delete from or change this solicitation document;
- Determine which respondent, if any, should be selected for negotiations;
- Reject any or all proposals or information received pursuant to this RFP;
- Cancel this RFP with or without the substitution of another RFP;
- Request additional data or information after the submittal date, if such data or information is considered pertinent to aid the review and selection process;
- Conduct investigations with respect to the qualifications and experience of each respondent;
- Take any action affecting the RFP or the services or facilities subject to this RFP that would be in the best interest to the municipality;
- Require one or more respondents to supply, clarify or provide additional information in order for the municipality to evaluate the proposals submitted;
- Waive any informalities or irregularities in the submittals or to re-advertise; and
- That the lowest, or any bid, will not necessarily be accepted either individually or collectively.

Submission of Proposal:

Please provide four **(4)** copies of your service proposal, and **two (2) sealed** copies of your financial proposal, signed by an authorized official, in a sealed package, clearly identified as to contents and addressed to:

Paul McMunn, C.E.T.
Director of Public Works and Utilities

Corporation of the Town of Smiths Falls

Box 695, 77 Beckwith St. N.
Smiths Falls, Ontario
K7A 4T6

Proposals **MUST** be received at this location NOT LATER THAN **1:00 P.M. LOCAL TIME**, on **November 12, 2021**.

Proposals received after the above due date and time will not be considered, but will be returned unopened, to the Consultant.

Contracting Authority:

For further information regarding the Request for Proposal, or the assignment, please contact:
Corporation of the Town of Smiths Falls
Box 695, 77 Beckwith St. N.
Smiths Falls, Ontario
K7A 4T6

Attention:
Paul McMunn, C.E.T.
Director of Public Works and Utilities
Telephone: (613) 283-4124 x 1152

E-mail: pmcmunn@smithsfalls.ca

It is essential that the elements contained in the proposal are stated in a clear and concise manner. Failure to provide complete information as requested will be to the consultant's disadvantage. Proposals should be submitted in the format requested, with an index and preferably including the criteria subject to point rating in a clear identifiable location. If a Consultant feels that the conditions will restrict it unnecessarily in any way, it should so state in its proposal. Any deviation from the stipulated conditions should be given in detail with an explanation as to why they are being proposed. The Corporation reserves the right to accept any proposal as submitted without prior negotiations. It is the responsibility of the Consultant to obtain clarification of the requirements contained herein, if necessary, prior to submitting a proposal. Each proposal will be evaluated solely on its content. Assessment of the proposal commences immediately after closing date.

The Corporation does not accept proposals submitted by facsimile transfer machine or electronic mail. This Request for Proposal does not commit the Corporation to award a contract or to pay any costs incurred in the preparation of a proposal, or attendance at a meeting with Corporation staff.

Annex A

Project Information and General Terms of Reference

Professional Services for Municipal Class Environmental Assessment for the Confederation Drive River Crossing RFP # 21-PW-020

1.0 INTRODUCTION

The Town of Smiths Falls is presently seeking professional services from a consulting firm, or consortium of firms to undertake the completion of a Municipal Class Environmental Assessment (MCEA) for the replacement of the Confederation Drive crossing.

The purpose of this Request for Proposal (RFP) is to solicit written submissions from a single consulting firm, or a team of firms, technically qualified to complete the work required, as outlined herein.

The objective of the study is to review alternatives and provide a recommendation for a preferred design solution that will maintain acceptable levels of service.

The Successful Bidder must demonstrate the ability to develop the range of practical alternatives and evaluate the alternatives to identify the most appropriate alternative to address the problem in a way that produces the best possible outcome for the municipality.

The Successful Bidder must be capable of providing accurate, reliable, timely, and fiscally responsible services.

The bid must meet all the requirements outlined in this document.

This completed report shall furthermore be considered by Council no later than November 22, 2021.

1.1 COMMUNITY PROFILE

The Town of Smiths Falls is a separated single-tier municipality covering approximately 9.6 km². The community is located in the County of Lanark and is within an hour's driving distance to both Kingston and Ottawa. Bisected by the Rideau Canal, Smiths Falls is accessible by a number of major roads including Highway 15, Highway 29 and County Road 43, connecting it with outlying communities and providing access to a number of 400 series highways. The Town

is also accessible by freight and passenger rail and the local airport with a dedicated commercial hanger.

The Town of Smiths Falls' population is approximately 9,000 and is composed of approximately 4,200 private households. The Town is an employment and commercial hub serving a population of more than 25,000 households, with a regional population of approximately 70,000 residents within a 30 minute driving radius.

2. PROJECT SCOPE

2.1 Study Background

Keystone bridge management Corp. has completed a preliminary assessment & options report in January 2020.

2.2 Study Area

The Confederation Drive Bridge is a single Lane twin span pony truss constructed in 1904 that spans the Rideau Canal locks in Smiths Falls.

2.3 PROJECT OBJECTIVES

The purpose of the assignment is to assist the Town of Smiths Falls in determining the best course of action for the replacement of the Confederation Drive River Crossing. The chosen proponent should demonstrate a clear plan on how the public will be engaged to help determine if the existing bridge should be replaced with either a pedestrian or vehicular bridge. A traffic study reviewing the current and future uses of the bridge will be required based on proposed future development occurring in the area. The Current historical status of the bridge is unknown and will need to be incorporated into any future design decisions. An archaeological phase 1 study will be required.

Upon completion of this engagement process the proponent shall submit a written report and complete a Municipal Class Environment Assessment (MCEA) in accordance Municipal Class Environmental Assessments (EAs) guidelines, 2018 (as amended) prepared by the Municipal Engineers Association (MEA) for the recommend replacement of the structure. The successful Consultant will be required to review the structure and any related material including but not limited to any existing OSIM inspection reports so as to manage the MCEA project. The successful Consultant will be required to undertake sufficient structural design so as to allow for the full evaluation of the "replacement" alternatives and as required to knowledgeably answer and address any concerns raised by the various approval agencies and /or the public that will be consulted during the MCEA Process.

NOTE: Upon completion the MCEA and assuming the preferred outcome is the "replacement" of the structure, it would be the Town's intention to replace the structure commencing in 2022. The Town will issue a RFP to complete the design, prepare drawings, and specifications for the work.

2.4 Specific Requirements

The Consultant shall address the following minimum requirements as part of the background study work:

Initiate the Project:

Develop and issue a notice of study commencement.

Data Collection and Analysis

Assemble all relevant data from the municipality and any other applicable sources including field investigations and assessments. Inventory natural, social, and economic environments. Analyze the data to gain a firm understanding of the facility, operations and physical conditions.

Public Engagement – Replacement Options

Public engagement plan & Recommendation report to Council

Presentations to Council:

Prepare and make presentations to Town Council of findings at the end of the information gathering stage and when the technically preferred alternative has been identified.

Identify EA Schedule:

The consultant is required to identify in their submission the EA Schedule that they believe the project to fall under. The Town believes this project is classified as a Schedule B. Consultants should base their proposal on a process similar to a Schedule B Environmental Assessment. Should the applicable schedule be determined to be otherwise through the conduct of the assessment suitable adjustments to the work plan will be made.

Alternative Generation and Evaluation:

The preferred Consultant must be experienced in the review, assessment, design, tender and construction of bridges and related structures, the permit to take water process, and the Municipal Class Environment Assessment process. The consultant will generate the range of reasonable alternatives for the undertaking and evaluate the impacts of each in terms of the efforts on the environments. Potential mitigating measures need to be identified.

Consultation:

During the project the consultant will be required to liaison with municipal representatives, First Nations, provincial and federal regulatory and approval bodies, and the public as directed through the MCEA process. The consultant should identify, in their submission, the estimated time and cost for any consultations based on their experience with similar works.

Preliminary Design:

Complete sufficient preliminary design so as to provide accurate submissions to the various approval agencies and for the purpose of preparing a class C estimate. The Consultant should detail their proposed level of effort on the preliminary design in their submission.

Project Report:

Assemble a project report/file to document the process followed, the preferred solution and any mitigating measures required to facilitate the project. Place the file on the public record for the requisite period.

Notice of Study Completion:

Prepare and issue a notice of study completion.

2.4 Documentation

The following documentation will be available for review as part background review work completed by the successful consultant:

- Town Council Report #2020-087 (July 2020);
- Confederation Drive Bridge Assessment and Options Report #2020-022 (January 2020);

2.5 Consultation Process

The MECA of the Confederation Drive Bridge shall include a public engagement and communication plan that will identify the various stakeholder groups, their role in the process, how they will be engaged, and the nature of communications. Stakeholders may include but not be limited to:

- Parks Canada
- Ministry of Transportation;
- Ministry of the Environment, Conservation & Parks
- Ministry of Municipal Affairs and Housing;
- Ministry of Tourism and Culture;
- Ministry of Natural Resources;
- Rideau Valley Conservation Authority;
- Adjacent Municipalities;
- Emergency Services;
- Utility Companies;
- Aboriginal Groups / First Nations;
- School Boards and Transportation Providers;
- Smiths Falls Chamber of Commerce;
- Smiths Falls Downtown Business Association General Public

The consultant will be required to obtain comments from the public and affected / interested agencies in a pro-active, consultative manner by utilizing such methods as public information centres, open houses, surveys or social media to provide input towards the planning and delivery of any future transportation services. The Town's website / Facebook page may furthermore be used for soliciting comments from the public and disseminating public information.

3. REPORTING AND DELIVERABLES

Meetings / Presentations

Meetings unless otherwise specified shall be at the Town of Smiths Falls municipal offices located at 77 Beckwith Street North, Smiths Falls, Ontario;

The following meetings will be required with key staff for the project:

- Project Initiation;
- Interim Council Updates (1 meeting – Project Manager);
- Public Information Meetings;
- Presentation of Final Draft to Committee of the Whole;
- Attendance at Town Council meeting for final receipt of document;

Scheduled Updates

- On a bi-weekly basis the consultant's project manager shall give a verbal update by conference call to the Project Manager or his designate. An email identifying topics to be discussed shall be sent by the consultant 2 days prior to the call.
- Topics shall include but not be limited to; schedule, progress of contract, challenges, and budget including any claims for funds being requested beyond the scope of the contract which must be requested and approved in advance.
- The date and time of the bi-weekly verbal update shall be mutually agreed upon by both parties to accommodate schedules.

Final Report / Document Requirements

All draft documents, reports, schedules and information to be discussed at public meetings shall be forwarded to the project manager a minimum of seven (7) days prior to the meeting date.

The Consultant will be required to provide all presentation display material as well as sufficient copies of the report and maps to meet the requirements of a full and active stakeholder participation process.

At the completion of the project, five (5) final copies of the completed study shall be submitted. In addition, all text documents shall be forwarded to the Town on a multi media disk and saved in both MS Word and Adobe (pdf) format. Any computerized mapping and drawings shall be submitted in Adobe format.

The final deliverable of this project is a study document entitled Assessment for the Confederation Drive River Crossing (the Plan), which will include all findings and recommendations meeting requirements of a schedule C project under Phases 1 to 3 of the Municipal Class Environmental Assessment. This Plan is furthermore to be prepared in general accordance with recognized transportation practices (Transportation Association of Canada, Ministry of Transportation of Ontario, Institute of Transportation Engineers, Transport Canada, etc.).

4. SCHEDULING

The Request for Proposal process shall follow the dates identified unless formally adjusted by addendum:

- RFP Issued October 22nd, 2021
- Deadline for Inquiries November 3rd, 2021
- Release of Final Addendums November 5th, 2021
- Deadlines for Submissions November 12th – at 1:00PM Local Time
- Recommendation of Award November 22nd, 2021

5. SERVICES TO BE PROVIDED BY THE TOWN OF SMITHS FALLS

- General direction to the Consultant in the provision of services as necessary during the term of this agreement.
- Provide available land use, demographic, road characteristic and traffic volume data;
- Provide electronic base mapping, studies, and land use information where required to facilitate the works;
- Meet on an on-going basis with the consultant to review progress and provide direction and technical input;
- Advertise notices and locations for public meetings;
- Identify and provide contacts for key stakeholders;
- Review information prepared by the consultant and comment in a timely manner;
- Authorize payment of invoices to the consultant.

Annex B

Financial Proposal and Contractual Acknowledgement

Basis of Payment:

The Consultant offers to provide the services detailed herein under Project Information and General Terms of Reference, and as further detailed in the Consultant's proposal, to the acceptance of the stated Contract Authority for the following Total Upset Limit Price.

Professional Fees:

\$ _____

Disbursements:

\$ _____

HST (13%)

\$ _____

Total Upset Limit Price:

\$ _____

The Consultant is required to provide a detailed price breakdown by major tasks with the Proposal. The breakdown should include the specific activities planned, the timing and associated level of effort by individual or classification, and the associated hourly or per diem rates for which the Consultant will seek payment.

Consultants should note the following when preparing their financial proposal:

Professional Fees:

Professional fees are to include the cost of sub-consultants.

Disbursements:

All reasonable and proper expenses incurred by the Consultant shall be reimbursed under this item without any allowance thereon for overhead and or profit. The following costs shall not be reimbursed:

- Communication expenses including facsimile, local phone and cellular charges
- Standard PC or computer aided design and drafting equipment (excludes specialized equipment or software as identified in Consultant's proposal)

Method of Payment:

Monthly payments shall be made based on time expended following receipt and acceptance of an invoice by the Project Manager. The invoice should include a breakdown by hours worked by individual team members on each major task and progress to the date on invoice. Additional back-up documentation shall also be provided where sub-contracted works form part of the overall work program.

Contractual Acknowledgement

The Consultant hereby agrees to be legally bound by the provisions of the resulting Agreement, including, but not limited to, the General Conditions - Professional Services (Annex "C"). The Consultant further acknowledges and agrees that the final terms of the resulting Professional Agreement with the Corporation shall be concluded and become legally binding on both parties upon receipt and acceptance by the Consultant of a Purchase Order issued by the Corporation. The Consultant further agrees that acceptance of the Purchase Order will be deemed to take place five (5) business days after receipt of a Purchase Order, unless the Consultant provides the Corporation with a written objection to, or refusal of, the Purchase Order within the said five (5) business day period.

SIGNED this _____ day of _____ in the year _____.

CONSULTANT

I have the authority to bind the Corporation.

Company Name _____

Company Address _____

Phone # _____

Annex C

General Conditions – Professional Services

1. RETAINER AND STATUS OF CONSULTANT

The Corporation retains the Services of the Consultant and the Consultant hereby agrees to provide the Services described herein under the general direction and control of the Corporation. The Consultant is retained as an independent contractor for the sole purpose of providing the services. Neither the Consultant nor any of its personnel are engaged as an employee, servant, or agent of the Corporation.

2. SERVICES

The Services to be provided by the Consultant to the Corporation are set forth in the Terms of Reference and the Proposal, as amended by the Purchase Order, and such Services as changed, altered or added to, under the provisions of this Agreement are hereinafter called the "Services". All Services shall be performed by staff of the Consultant, or sub-consultants identified within the final accepted proposal. The Consultant shall not engage others to perform specialized services unless prior approval, in writing, is obtained from the Corporation.

3. COMPENSATION

The Corporation shall pay the Consultant in accordance with the provisions set forth in this Agreement. All invoicing and payments shall be in Canadian dollars.

4. STAFF AND METHODS

The Consultant shall perform the services to a professional standard in accordance with current "best practices" and shall skillfully and competently perform the Services and shall employ only skilled and competent staff thereon who shall be under the supervision of a senior member of the Consultant's staff.

5. RECORDS AND AUDIT

(1) In order to provide data for the calculation of fees on a time basis, the Consultant shall keep a detailed record of the hours worked by and salaries paid to its staff in the performance of the Services.

(2) The Corporation may inspect and audit the books, payrolls, accounts and records of the Consultant at any time, during the Consultant's normal business hours, with respect to any item for which the Consultant is seeking compensation from the Corporation.

(3) The Consultant shall provide copies of receipts with respect to any disbursement for which the Consultant claims compensation from the Corporation.

6. CHANGES AND ADDITIONAL SERVICES

The Corporation may, with the consent of the consultant, in writing and at any time before or after the commencement of the Services, extend, increase, vary or otherwise alter the Services, and in such cases the Corporation shall pay the Consultant in accordance with agreed upon rates, either per hour, per diem or fixed costs, as may be determined.

7. SUSPENSION OR TERMINATION

The Corporation may at any time by notice in writing to the Consultant suspend or terminate the Services or any portion thereof at any stage of the undertaking, and the Consultant shall thereupon be entitled to payment for any of the Consultant's staff employed directly thereon together with such expenses and disbursements allowed under this Agreement. Upon receipt of such written notice, the Consultant shall perform no further Services other than those reasonably necessary to closeout the Services.

Upon written notice of suspension or termination, or upon a written demand by the Corporation at any time during the term of this Agreement, the Corporation shall be given and have the right to take possession of and use any completed or partially completed drawings, documents, software, equipment and other information prepared or to be supplied by the Consultant.

If the Consultant is practicing as an individual and dies or becomes incapacitated before the Services have been completed, this Agreement shall terminate as of the date of death, or incapacity, as applicable, and the Corporation shall pay for the Services rendered and disbursements incurred by the Consultant to the date of such termination.

8. INDEMNIFICATION

The Consultant shall indemnify and save harmless the Corporation from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which the Corporation, its employees, officers or agents may suffer as a result of the negligence or breach of contract of the Consultant, its employees, officers or agents in the performance of this Agreement, subject to the following:

CORPORATION PROVIDED INFORMATION:

The Corporation further acknowledges and agrees that the Consultant will not be held liable for any damages / losses of any kind or nature that may result from the use of inaccurate information or data provided to the Consultant by the Corporation. The Corporation agrees to accept full responsibility for the accuracy of all information and data that it provides to the Consultant.

WORK PRODUCT LIMIT:

The Corporation further acknowledges and agrees that the Consultant cannot warrant the fitness of any records, documents or work product that are (i) incomplete due to early termination or suspension of this agreement; or (ii) altered, revised, amended, or modified without the consent or knowledge of the Consultant.

9. FORCE MAJEURE

A party hereto shall not be responsible for failures in performance due to force majeure. "Force Majeure" means any circumstance or act beyond the reasonable control of a party to this Agreement claiming Force Majeure, including an intervening act of God or public enemy, war, blockade, civil commotion, fire, flood, tidal wave, earthquake, epidemic, quarantine restriction, a stop-work order or injunction, issued by a court or public authority having jurisdiction, or governmental embargo, which delays the performance of any obligation created by this Agreement beyond its scheduled time, provided such circumstance or act is not expressly dealt with under this Agreement or does not arise by reason of:

- the negligence or willful misconduct of the party claiming Force Majeure or those for whom it is responsible at law;
- any act or omission by the party claiming Force Majeure (or those for whom it is responsible at law) in breach of the provisions of this Agreement;
- lack or insufficiency of funds or failure to make payment of monies or provide required security;

provided further that, in the case of an event of Force Majeure affecting the Consultant, the Consultant notifies the Corporation as soon as possible and in any event within five (5) working days following the date upon which the Consultant first becomes aware (or should have been aware, using all reasonable due diligence) of such event so that the Corporation may verify same.

In any such event, Consultants agreement and price and schedule shall be equitably adjusted based on the actual work authorized and performed satisfactorily, and the rates agreed to in the agreement.

10. INSURANCE

(1) Without restricting the generality of the Indemnification provisions, the Consultant shall, during the term of this Agreement, provide, maintain and pay for:

- (a) Commercial General Liability insurance Issued on an occurrence basis for an amount of not less than \$5,000,000 per occurrence / \$5,000,000 annual aggregate for any negligent acts or omissions from the contractor relating to its obligations under this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury and advertising injury; contractual liability; premises, property & operations; non-owned automobile, broad form property damage; owners and contractors protective; occurrence property damage; products and completed operations; employees as Additional Insured(s); contingent employers liability; tenants legal liability; cross liability and severability of insurance clause.

Such insurance shall add the Corporation of the Town of Smiths Falls as Additional Insured with respect to the operations of the bidder. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Corporation. The successful bidders shall indemnify and hold the Corporation of the Town of Smiths Falls harmless from and against any liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasionally wholly or in part by any negligence or acts of omissions whether willful or otherwise by the bidder, its agents, officers, employees or other persons for whom the bidder is legally responsible.

- (b) Automobile liability insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than \$5,000,000 inclusive for each and every loss; and
- (c) Professional Liability (errors and omissions) insurance coverage shall be obtained for the limit of not less than \$1,000,000. If such insurance is issued on a claims made basis,

coverage shall contain a 24 month extended reporting period or be maintained for a period of two years subsequent to conclusion of services under this Agreement.

(2) The Consultant shall provide the Corporation with proof, satisfactory to the Corporation Insurance Administrator, of the insurance required under this Section.

(3) If the Corporation requests to have the amount of coverage increased or to obtain other special insurance for the Services for the Project, then the Consultant shall endeavour forthwith to obtain such increased or special insurance at the Corporation's expense.

(4) All above policies shall contain an endorsement to provide the Corporation of The Town of Smiths Falls with thirty (30) days prior written notice of cancellation or of a material change that would diminish coverage."

11. WSIB

The successful Consultant is required to conform with the Occupational Health and Safety Act related to the performance of the contract. In addition, the successful Consultant will be required to supply to the Municipality a valid Clearance Certificate issued by the WSIB, or if applicable, a letter from WSIB verifying Independent Operator's Status. A new clearance certificate is required every sixty (60) days.

12. CONFLICT OF INTEREST

Neither the Consultant nor any person, firm or corporation associated or affiliated with or subsidiary to the Consultant shall tender for the construction of a project, or have an interest either directly or indirectly in the construction of a project that arises from the Services. The Consultant is required to disclose to the Corporation, prior to accepting this assignment, any potential conflict of interest. If a conflict of interest exists, the Corporation may, in its discretion, withhold this assignment from the Consultant until the matter is resolved to the satisfaction of the Corporation. If, during the term of this Agreement the Consultant is retained by another client and that assignment gives rise to a potential conflict of interest, the Consultant shall so inform the Corporation and if a conflict of interest is deemed to exist by the Corporation, the Consultant shall either refuse the new assignment or take such steps to remove the conflict of interest as are deemed necessary by the Corporation.

13. ASSIGNMENT

Neither party may assign this Agreement or any portion thereof without the prior consent in writing of the other.

14. PREVIOUS AGREEMENTS

This Agreement supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Services.

15. APPROVAL BY OTHER AUTHORITIES

Where either the Services of the Consultant or the Project is subject to the approval or review of an authority, government department or agency other than the Corporation, such approval or review shall be obtained through the offices of the Corporation and unless authorized by the Corporation in writing, such approval or review shall not be obtained by direct contact by the Consultant with such other authority, government department or agency.

16. INSPECTION

The Corporation, or persons authorized by the Corporation, shall have the right, at all reasonable times, to inspect or otherwise review the Services performed, or being performed, under the Project and the premises where they are being performed.

17. PUBLICATION

The Consultant shall obtain the consent in writing of the Corporation before publishing or issuing any information regarding the Project.

18. CONFIDENTIAL INFORMATION

Information communicated to or acquired by the Consultant in the course of carrying out the Services provided for herein shall not be either divulged or used by the Consultant on any other project unless prior approval, in writing, is obtained from the Corporation. The Consultant shall not at any time before, during or after the completion of the work divulge any confidential information acquired in the course of carrying out the work provided herein. No such information shall be used by the Consultant before, during or after the completion of work on this or any other project without the prior written approval of the Corporation.

19. MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

The Corporation is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, as amended ("MFIPPA") with respect to, and protection of, information under its custody and control. Accordingly, all documents provided to the Corporation in response to this Request for Proposal may be available to the public unless the party submitting the information requests that it be treated as confidential. All information is subject to MFIPPA and may be subject to release under the Act, notwithstanding the Consultant's request to keep the information confidential.

20. DRAWINGS AND DOCUMENTS

Drawings and documents or copies thereof required for the Project shall be exchanged between the parties on a reciprocal basis. Drawings and documents, including all drawings and documents delivered in an electronic, digital or other than paper format, prepared by the Consultant for the Corporation shall be the property of the Corporation free of all claims by the Consultant of any nature and kind whatsoever. The Consultant shall be entitled to retain a copy of all drawings and documents for record keeping purposes only and at its own expense.

Computer aided design drawings ("CADD") files shall be prepared and delivered in accordance with the most recent version of the applicable written standards of the Corporation. Following receipt, all digital drawing files shall be reviewed by the Corporation for compliance with the appropriate standards. In the event that any digital files shall be deemed to not comply, such files shall be returned to the Consultant for modification to bring them into compliance with the standards at no extra cost to the Corporation. The Consultant may contact the Corporation in order to clarify which of the standards applies to the CADD drawing files prior to providing same.

21. PATENTS

(1) The Consultant shall make a prompt written disclosure of any patentable invention, improvement or discovery conceived or first actually reduced to practice in the performance of the Services and shall submit separately, or as part of the final report on the Project, a complete list of all such inventions, improvements and discoveries, including those previously disclosed.

(2) Subject to the provisions of this Section, any patentable rights or other rights in any invention, improvement or discovery conceived or actually reduced to practice in the performance of the Project, shall be the property of the Consultant.

(3) The Consultant, upon request in writing, shall grant to the Corporation, for itself, the Province or any other Corporation in Ontario, pursuant to any statute of the Province, an irrevocable, nonexclusive, royalty-free license to practice any invention, improvement or discovery conceived or actually reduced to practice, in the performance of the Services, in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method, but such license shall not include the right to sub-license.

22. LOCATION OF CONSULTANT'S OFFICE

For the purposes of this Agreement, all Services performed by the Consultant shall be deemed to be performed in the office of the Consultant, with the exception of Project Meetings (Project Coordination etc) which will be located in the Corporation of the Town of Smiths Falls unless written approval of an alternate location is obtained from the Corporation. All fees and disbursements shall be calculated and invoiced according to the applicable deemed location of the Consultant's office.

23. TIME

(1) The Consultant shall perform the Services expeditiously to meet the requirements of the Corporation and shall complete any portion or portions of the Services in such order as the Corporation may require.

(2) The Consultant shall perform all the Services required under this Agreement by the date or dates stated in the Purchase Order, or as otherwise approved, in writing, by the Corporation. Requests for extensions of the completion date shall be submitted, in writing, by the Consultant no later than twenty (20) days prior to the completion date.

(3) The Corporation shall give due consideration to all designs, drawings, plans, specifications, reports, tenders, proposals and other information submitted by the Consultant, and shall make any decisions which are required in connection therewith within a reasonable time so as not to delay the work of the Consultant.

24. PAYMENT OF FEES

(1) The Consultant shall submit an invoice to the Corporation for all Services completed in the immediately preceding month. Interest at an annual rate equivalent to the Bank Rate established by the Bank of Canada for Short Term advances to chartered banks will be paid on the total outstanding unpaid balance commencing thirty (30) days after the Corporation has received and approved the Consultant's invoice.

(2) Where the Consultant is to be paid on a time basis for any part of the Project, no part of such fee shall be based upon any hours of work that have not been recorded as required by the provisions of this Agreement or upon any salary other than the salary applicable to the particular type of work performed as approved by the Corporation.

25. INTERIM EXPENDITURE REPORTS AND PAYMENT RESTRICTION

(1) The Consultant shall notify the Corporation, in writing, when fifty percent (50%) of the total funds allocated for the Services have been expended, and again when seventy-five percent (75%) of the funds have been expended.

The Consultant shall submit with each of these notices, a detailed report of the Services completed at the interim expenditure dates.

(2) The Consultant's total fees and disbursements for the performance of all the Services required under the terms of this Agreement shall not exceed the total amount stated in the Purchase Order.

(3) The total amount specified in the Purchase Order, as well as all applicable taxes payable, shall represent the total amount payable to the Consultant with respect to the provision or supply of any Services or intangible property by the Consultant to the Corporation, or in connection with the provision, supply, transfer or sale of any goods, material or tangible property by the Consultant to the Corporation pursuant to this Agreement. Any changes in taxes payable during the Term of Services may, in the discretion of the Corporation, either increase or decrease the total amount payable to the Consultant under the terms of this Agreement.

26. OCCUPATIONAL HEALTH AND SAFETY

The Consultant shall ensure that all Services are provided in a manner that complies with the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended, and the regulations made thereunder.

27. REPLACEMENT OF PERSONNEL AND/OR SUB-CONSULTANTS

(1) When specific persons have been named in the Contract as the persons who must perform the Work, the Consultant shall provide the services of the persons so named unless the Consultant is unable to do so for reasons beyond its control.

(2) If at any time, the Consultant is unable to provide the services of any specific person named in the Contract, it shall provide a replacement person who is of similar ability and attainment.

(3) The Consultant shall, before replacing any specific person named in the Contract, provide notice in writing to the Corporation. The replacement must be acceptable to the Project Manager.

28. SUCCESSORS AND ASSIGNS

The Contract shall ensure to the benefit of, and shall be binding upon, the successors and permitted assignees of the Corporation and of the Consultant.

29. FRAUD OR BRIBERY

Should the Consultant or any of his/her agents give or offer any gratuity to, or attempt to bribe any member of the awarding body, officer or servant of the Corporation, or to commit fraud against the Corporation, the Corporation shall be at liberty to declare the proposal void forthwith, or to take the whole or any part of the contract out of the hands of the Consultant and to invoke the provisions of termination.

30. AWARD

Any award resulting from this Request for Proposal will be in accordance with the Corporation's Policies Respecting the Procurement of Goods and Services (By-Law 7850-2004 as amended), and may be subject to Town Council approval.

31. SEVERABILITY

If any provision of this Contract becomes illegal or unenforceable in whole or in part, the remaining provisions shall nevertheless be valid, binding and subsisting.