

REQUEST FOR PROPOSALS
RFP #LS002-202308

1. LISTING OF DOCUMENTS WITHIN THIS PACKAGE

Request for Proposal ----- Pages 1-7
Terms of Reference ----- Pages 8-12
Contractor Agreement ----- Pages 13-24

2. KEY DATES

RFP Posting	August 24, 2023
Deadline for Inquires	September 7, 2023
RFP Closing	September 14, 2023 (2:00:00 P.M. Local time)
Award Date	September 21, 2023
Project Start Up	September 26, 2023
Project Completion	December 31, 2023

3. REQUEST FOR PROPOSAL

3.1. Intent of Request for Proposal

The intent of this Request for Proposal (the “RFP”) is to accept Proposals from qualified firms (the “Proponent”) to provide Water & Wastewater Rate Analysis & 2024-2034 Rate Model Design, all as more specifically described in the attached Terms of Reference.

3.2. Submission of Proposals

The Town of Peace River (the “Town”) will receive **E-MAILED** Proposals, identifying **RFP #LS002 - 202308** in the subject line and addressed and delivered to:

tenders@peaceriver.ca

prior to 2:00:00 P.M. local time on Thursday, September 14, 2023 (the “Closing Time”). Proponents are cautioned that the Closing Time is based on when the proposal is RECEIVED by the Town, and NOT when a proposal is submitted by the Proponent. It is the sole responsibility of the Proponent to be mindful of the length of time for the proposal to be transmitted due to file transfer size, transmission speed, etc., and the Town shall not be responsibility for any delivery issues whether or not caused by the Town server. As such, Proponents are encouraged to seek confirmation from the Town that their proposal has been received.

Proposals will not be considered if the Proposal is not received by the Town before the Closing Time.

The Town will not be responsible for any cost incurred in the preparation or presentation of Proposals.

3.3. Proposal Submission Content and Format

Proposals should contain the following information:

- a) **Cover Letter** – a summary that includes the firm’s name and address, the name, telephone number and email address of the contact person and the date of the proposal. Should also include a description briefly stating the Proponent’s understanding of the purpose and objective of the project, the benefits they bring to the project, any potential issues or constraints and how they would be dealt with.
- b) **Corporate Experience** –The Proposal will include a list and brief description of similar projects completed in the past five (5) years. The Proposal will include a brief description of the work under-taken and the name, title, telephone number, and email address of a key contact that can be used as a reference check.
- c) **Quality Control** – The Proposal will describe the Proponent’s quality control plan (i.e. Professional Practice Management Plan) and explain how the plan will ensure quality results.
- d) **Project Team**
 - The Proposal will include a list of personnel to be assigned to the project, their relevant recent experience, qualifications, and level of involvement on the project. The Project Manager or team leader should be clearly identified.
 - The Proposal will include a complete list of any/all sub-consultants including their role, experience, and personnel to be utilized. The successful Proponent(s) shall accept full responsibility for the quality, accuracy and correctness of all work performed by all sub-consultants.
- e) **Methodology and Schedule**– The Proposal will describe the overall approach to achieve the objectives including the extent to which the solution meets the needs of the project requirements, the project management approach for completion of the work, and potential strategies to overcome identified challenges. The Proponent should confirm the expected timelines and proposed completion dates for the work.
- f) **Proposal Compensation**

The Proposal will detail:

 - A maximum upset fee quoted in Canadian funds excluding GST.
 - A rate schedule with hourly rates for reimbursable work by discipline/category.

- Disbursements and mark-ups for all sub-consultants.
- The billing method.

g) Other relevant information the Proponent deems necessary to support their Proposal.

3.4. Inquiries

All inquiries regarding this RFP are to be directed in writing to the RFP Contact:

Barbara Miller, CPA, CGA, CLGM
Chief Administrative Officer
cao@peaceriver.ca

3.5. Verbal Answers

Verbal answers provided by any Town staff or paid consultants of the Town are only binding when confirmed by written addenda from the Town.

3.6. Changes in Proposals

Proposal submissions shall not be withdrawn, modified or clarified after they have been received by the Town, unless such withdrawal, modification or clarification is received in writing by the Town prior to the Closing Time. Submissions containing changes should clearly state the RFP # and be identified as an amendment in the email submission and submitted in the same format as detailed in section 3.2.

4. INSURANCE

The successful Proponent will be required to provide the insurance set forth in the Project Agreement and the costs of such insurance shall be included in the Proposal Compensation.

5. ACCEPTANCE OF PROPOSAL

Proponents are notified that the lowest cost Proposal or any Proposal need not be accepted by the Town and the Town reserves the right to reject any and all Proposals at any time without further explanation or to accept any Proposal considered advantageous to the Town, or to cancel this RFP at any time. Award shall be made on Proposals that will give the greatest value based upon quality, service, and price.

For greater clarity, in awarding any contract, the Town may consider any or all of the following factors in evaluating and selecting the successful Proponent(s):

- a) Corporate Experience, Project Team and Quality Control (25%)
 - Previous related knowledge and experience

- Demonstrated successful project completion record for similar projects
 - Demonstrated effective processes and quality control systems
 - Demonstration of relevant qualifications and experience of assigned project staff and their role in the project
 - Availability and commitment of assigned personnel
- b) Project Understanding and Proposed Work Plan (25%)
- Appropriate assumptions to demonstrate the understanding of the scope
 - Work schedule meeting critical milestones and proposed completion date for the work
 - Effective project controls – communications and consultation planning approach, risk management planning approach, quality management approach
- c) Proposal Compensation (30%)
- Proposed total cost and value for specific services proposed
 - Appropriate allocation of resources and fees for services proposed
 - Cost certainty or risk for the Town based on proposed compensation formula
 - Value of commitments including warranty or other support included with the services, including any potential cost savings to the Town associated with the proposal
- d) References (20%)
- 50% of score shall be assigned as follows:
 - 0 references – 0% of score;
 - 1 reference – 15% of score;
 - 2 references – 50% of score
 - 50% of score based on the quality of reference as determined by the evaluator(s)

The Town may elect at its sole discretion to accept or reject any Proposal or part thereof and to waive any defect, irregularity, mistake or non-compliance in any Proposal and to accept or reject any Proposal or alternative Proposal, in whole or in part, which it deems to be most advantageous to its interests.

No implied obligation of any kind or on behalf of the Town shall arise from anything in the RFP Documents.

6. NEGOTIATIONS

The Town may, prior to and after contract award, negotiate changes to the scope of work, the type of materials, the specifications or any conditions with or one or more of the Proponents without having any duty or obligation to advise any other Proponent or to allow them to vary their Proposal Compensation as a result of such changes and the Town shall have no liability to any other Proponent as a result of such negotiations or modifications.

7. DURATION OF OFFER

7.1. Duration of Offer

Proposals shall remain firm and open for acceptance by the Town for sixty (60) days from the closing date of the RFP, irrespective of whether the Town has accepted any Proposal.

Award of the RFP is contingent on signing of a Contract Agreement by both parties.

8. REQUIRED REVIEW

The Proponent shall carefully examine the RFP Documents. Any errors, omissions, discrepancies, or matters requiring clarification shall be reported in writing to the RFP Contact on or before the Deadline for Inquires. If a Proponent fails to report any such errors, omissions, discrepancies, or matters requiring clarification, the Town shall be the sole judge as to the intent of the RFP Documents.

During the RFP period, the Town shall, if necessary, advise Proponents by way of addenda of any alterations to the RFP Documents. All such alterations shall become part of the RFP and their effects shall be reflected in the Proposal Compensation.

Should the Town issue an addendum to the RFP, it will be posted only on the Alberta Purchasing Connection (“APC”) website. Proponents are responsible for obtaining all addenda issued by the Town.

9. DUTIES AND TAXES

The Proponent shall include in the Proposal Compensation all duties and taxes, other than the Goods and Services Tax, including Customs duties, Excise duties, brokerage charges and all other taxes and charges applicable with respect to the RFP, unless otherwise specifically stipulated.

10. SUBCONSULTANTS/SUBCONTRACTORS

Proponent shall not change subconsultants/subcontractors, as identified in their Proposal, after the Closing Time unless they first obtain the Town’s written permission.

In evaluating Proposals prior to the award of the Contract, the Town may take into consideration the past performance of a subconsultant/subcontractor on Town or other projects.

11. REGISTRATION

Prior to commencing the Work, the successful Proponent shall obtain all permits and authorizations required by the law enabling it to carry on business and to complete the Work required under the Contract Agreement. Any failure to carry out these obligations shall entitle

the Town to terminate without compensation the Proponent's right to perform the Contract Agreement.

12. EVALUATION AND AWARD

Award of any Proposal will be in the form of written Notice of Award, duly authorized from the Town of Peace River. No other communication from the Town or a representative of the Town shall constitute an award.

The successful Proponent(s) will be required to enter into a Contractor Agreement with the Town. The terms and conditions found in the Contractor Agreement included in this RFP are to form the basis for commencing negotiations between the Town and the selected Proponent.

The Town reserves the right to award this RFP to one or more than one Proponents.

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

13. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

- a) All documents submitted to the Town are subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act*. While this Act allows persons a right of access to records in the Town's custody or control it also prohibits the Town from disclosing your personal or business information where disclosure would be harmful to your business interests or would be an unreasonable invasion of your personal privacy as defined in Sections 16 and 17 of the Act. Applicants are encouraged to identify what portions of their submissions are confidential and what harm could reasonably be expected from its disclosure.
- b) The purpose for collecting the personal information required to be provided in this RFP is to enable the Town to ensure the accuracy and reliability of the Proposal, and to enable the Town to evaluate your response to this RFP and for other related program purposes of the Town. Authority for this collection is the *Municipal Government Act*. You may contact the Town if you have any questions about the collection of information pursuant to this RFP.

c) Evaluations will be confidential.

14. WORKERS' COMPENSATION

Proponents must, if called upon to do so, provide verification from the Workers' Compensation Board that their accounts are in good standing.

TERMS OF REFERENCE

RFP LS002-202308 Water & Wastewater Rate Analysis & 2024-2034 Rate Model Design

1 Purpose of RFP

It is the intent of this RFP process to identify and engage the most qualified consulting firm to assist the Town of Peace River in achieving sustainable rate structures that adequately fund water and wastewater operations, capital costs, debt, and reserves with reasonable, fair, and equitable rates.

Expected time to complete the Utility Rate Model will be December 31, 2023.

2 Scope of Services

2.1 Study Objectives

1. Provide a Financial Plan sufficient to satisfy the Town of Peace Rivers goal of full cost recovery and sustainable operations for the water and wastewater systems for a period of at least 10 years.

2.2 Study Requirements

1. The recommended rate structure shall be based on full cost of service and shall be sufficient to meet the short and long-term revenue requirements related to water and wastewater operating, capital expenditures and debt.
2. The study shall recommend rate structures that consider and make allowances for:
 - a. Current and future cost of providing water and wastewater in accordance with current and anticipated standards and regulations.
 - b. Growth estimates as established by the Town or other supporting documents.
 - c. The Asset Management Plan and asset condition assessments for the supply, distribution, and treatment infrastructure.
 - d. Funding requirements for all unfunded liabilities or other financial obligations required to be incorporated under Public Sector Accounting Standards.
 - e. Best practices in the areas of debt management and other financial tools.
 - f. Risk/uncertainty associated with revenue flows.
 - g. Recommendations of amendments and/or alignment the current by-laws, policies, and practices to the proposed new Utility Rate Model.
 - h. Other impacts or factors as identified.
3. Options for rate structures that is consistent with industry practices.

4. The benefits of moving away from the current rate structure shall document the impact on ratepayers.
5. Projected impacts that proposed rate structures will have on future consumption patterns and the resulting impact on the cost of providing services.
6. Provide strategies for implementing significant rate changes to reduce adverse impact on specific customer classes.
7. Justifications for any special classes of customers shall be adequately documented, including financial impacts.
8. The recommended rate structure shall result in no decrease to the stability of the current revenue streams.
9. The impacts of funding past and current depreciation should be incorporated into the rate structure and impacts detailed.
10. The recommended rate structure shall be easy to administer, understand and communicate to the end users.
11. Review of the Town's billing system to ensure the recommended rate structure can be easily implemented. If not, the costs to amend the systems must be documented and quantified.
12. The plan must include information on the projected financial information, which includes projected financial position, projected financial operations and projected cash flow.

2.3 Services to be provided by Consultant

1. Conduct a detailed review of existing utility rates and financial information.
2. Provide a comparison of current water and wastewater system costs and rates (operations, capital improvements and replacement, debt) against appropriate industry and similar municipal benchmarks.
3. Meet or concur with staff as needed and attend one or more meetings (evening) with citizens at an open house to obtain comments as required.
4. Conduct analyses as required to address the scope of work.
5. Prepare Preliminary Report due November 30, 2023
 - a. Prepare a preliminary financial plan and tentative rate structure.
 - b. Present preliminary report to staff working group and steering committee.

6. Conduct council workshop on or about November 27, 2023
7. Final Report due December 31, 2023
 - a. Incorporate changes from preliminary report presentation.
 - b. Provide 3 bound copies and an electronic copy of final financial plan and rate structures.
 - c. Present final report and recommended rate structure to Town Council – date to be determined.

2.4 Services to be provided by the Town

The services to be provided by the Town include, but are not necessarily limited to the following:

1. Make available all reasonable records and information, including financial reports, budgets, and consumption records.
2. Provide staff support and assistance as required.

2.5 Timetable and Submission Instructions

Proponents should submit their proposals according to the following timetable and instructions.

Timetable

Issue Date of RFP	August 24, 2023
Deadline for Questions	September 7, 2023 at 4:00 p.m. local time
RFP Closing Date	September 14, 2023 at 2:00 p.m. local time
Rectification Period	Three Business Days from notification of Rectification
Anticipated Date for Issuance of Invitation to Commence Negotiations	September 21, 2023
Phase 1 – Initial Meeting, Project Start-up	September 26, 2023
Phase 2 – Preliminary Information Gathering	October 2023
Phase 3 – Completion of Utility Rate Analysis	November 2023
Phase 4 – Initial Rate Analysis and Draft	November 30, 2023
Presentation to Council	TBD
Phase 5 – Submission of Final Analysis and Report	December 31, 2023

2.6 Payment Deliverable/Milestones

The Consultant will undertake the Project on the following basis:

Phase 1 – Initial Site Meeting, Project Start-Up – 5%

The consultant will attend a meeting with the Town’s Administration to set out the scope of work and discuss objectives for the rate review.

Phase 2 – Preliminary Information Gathering – 20%

The consultant will gather all available information that the Town might have available. Such information, in electronic format where available, and paper form where not available, would include:

- Previous Rate Analyses (Excel spreadsheet)
- The most recent iteration of the rate model spreadsheet
- Plans and Policies
- Water and Wastewater Rate Bylaws setting rates for years 2020-2023
- Wholesale Water Supply Agreements to external customers
- Sales and Revenue Information for Water and Wastewater Systems
- Water Sales Volume and Revenue by Town Customers by Class, Meter size
- Sales Volume and Revenue for Wholesale Water Customers
- Wastewater Revenue
- Non-Rate Revenue
- Direct Water and Wastewater Systems Annual Costs
- Management and Administration
- Financial Services and Billing
- Operating Costs
- Transfers to Operating Reserves
- Debt Payments
- Transfers to Capital Reserves
- Capital Expenditures
- Overhead Detailed Costs and Revenues
- Council
- Administration
- Finance
- Public Works (Common Services)
- Water and Wastewater System Balance Sheet Items
- Operating Reserves
- Capital Reserves
- Debenture and Other Debt
- Authorizing Bylaw
- Debt Details
- Tangible Capital Assets

- Original Cost
- Amortization Period
- Accumulated Amortization
- No Cost Capital (External Capital Contributions, Grants, Other Funding)
- Original Funding
- Any other information that the Town might feel is relevant. The Town would undertake to gather this information and convey it to the consultant.

With this information, the consultant would begin to prepare the rate model.

Phase 3 – Completion of Utility Rate Analysis – 50%

During this phase, the consultant will perform the utility rate analysis and request any additional information needed from the Town’s Administration.

In addition, the consultant will attend the Town Office for a day to meet with:

- Finance department staff to review the initial rate model, review the financial information systems of the Town to determine the best process for data export and model updating by Town staff.
- Public Works / Utility management to review five-year costs projections for water and wastewater systems.

Phase 4 – Presentation of Initial Rate Analysis and Draft Report – 15%

Based on the further information supplied and the understanding of the water and wastewater systems, the consultant would finalize the draft rate model and report.

This would be sent in advance to the Town’s Administration and the consultant would follow up with a presentation to the Town’s Administration as may be required.

Phase 5 – Final Analysis and Report – 10%

Based on input and results from the draft review, the consultant will finalize the Analysis and Report.

This will be transmitted to the Town’s Administration in .pdf format with source files from Excel and Word be provided.

THIS AGREEMENT made in this ____ day of _____, 2023.

BETWEEN:

TOWN OF PEACE RIVER
(hereinafter called the "Town")

OF THE FIRST PART

And

[INSERT]

(hereinafter called the "Contractor")

OF THE SECOND PART

WHEREAS the Contractor is in the business of providing consulting services of the following kind:

AND WHEREAS the Town wishes to retain the services of the Contractor as more particularly specified in the Town's Request for Proposal #LS002-202308 (the "RFP") to carry out work generally described as:

Water & Wastewater Rate Analysis & 2024-2034 Rate Model Design

(hereinafter referred to as the "**Project**");

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

1. **SERVICES**

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

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

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

interest is acquired during the term of the Agreement, the Contractor shall promptly declare it to the Town.

2. **AGREEMENT DOCUMENTS**

- 2.1. The following documents are incorporated into, and are deemed to be part of, this Agreement:
- a) RFP; and
 - b) Proposal
- 2.2. In the event of any inconsistency or conflict between the provisions of any of these documents, priority and precedence will be given by the following order or means:
- a) Order of precedence as follows:
 - i. The body of this Agreement
 - ii. RFP
 - iii. Proposal

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

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

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

3. **PAYMENT**

- 3.1. The Town will pay the Contractor the rates provided for in the Proposal upon the prompt and faithful performance of the Services to the satisfaction of the Town. Payment shall be subject to all applicable legislation, including without limitation the holdback requirements of the *Prompt Payment and Construction Lien Act*, RSA 2000, c P-26.4.
- 3.2. The Town shall not under any circumstances be obligated to pay to the Contractor any amount exceeding the sum set out in Section 3.1 unless prior written authorization has been obtained by the Contractor from the Town. Without limiting the generality of the foregoing, the Town shall not be required to make payment for any cost or disbursement incurred by or on behalf of the Contractor for the purpose of rectifying errors or omissions for which, in the reasonable opinion of the

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

4. **INFORMATION AND PROPERTY RIGHTS**

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

5. **REPORTING**

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

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

[name, title, and contact information]

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

6. **SUSPENSION OF AGREEMENT**

6.1. The Town may, at any time by notice in writing, at its sole and unfettered discretion suspend the performance of the Services.

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

7. **TERMINATION OF AGREEMENT**

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

- c) the Contractor becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment, or arrangement with any of its creditors; or
 - d) a trustee, receiver, receiver-manager or like person is appointed with respect to the business or assets of the Contractor.
 - e) has any conflict of interest which may, in the opinion of the Town, have an adverse effect on the Project.
- 7.2. Notwithstanding the foregoing, the Town may terminate this Agreement at its sole and unfettered discretion for its convenience upon seven (7) days written notice, hand delivered to the address given in Section 14.1 (or as changed pursuant to Section 14.3).
- 7.3. The Contractor, upon termination of this Agreement for any of the reasons set out in Section 7.1, shall be liable for, and upon demand shall pay to the Town an amount equal to, all loss or damage suffered, both directly and indirectly by the Town as a result of the non-completion of the Services. If the Contractor fails to pay the Town for any such loss or damage on demand, the Town shall be entitled to deduct the same from any payments due and payable to the Contractor, without prejudice to the Town's right to exercise any other remedies available to the Town at common law or at equity or under any statute.
- 7.4. The Contractor agrees that termination or suspension of this Agreement or a change to the Services in accordance with Section 1.5 does not operate so as to relieve or discharge the Contractor from any obligation under the Agreement or imposed upon him by law in respect to the Services or any portion of the Services.
- 7.5. Subject to Section 7.3 the Town shall, in the event of any termination of this Agreement, pay to the Contractor all amounts for completed work due to the Contractor in accordance with this Agreement as well as all reasonable fees incurred up to the date of termination. The Town shall have no further liability of any nature whatsoever to the Contractor for any loss of profit or for loss of business opportunity or for any other losses suffered whatsoever, either directly or indirectly, by the Contractor as a result of the termination of this Agreement.
- 7.6. The Contractor shall, upon termination, forthwith deliver to the Town a reproducible copy of all materials used by the Contractor or prepared by the Contractor in relation to this Project.

8. **INDEMNITY AND INSURANCE**

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

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

9. **SUBCONTRACTORS**

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

10. **ORGANIZATION – EMPLOYMENT DISCLAIMER**

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

11. **FORCE MAJEURE**

- 11.1. Neither the Town nor the Contractor shall be held responsible for any delay or failure to perform its obligations under this Agreement where such delay or failure is due to fire, flood, explosion, war, riots or acts of civil disobedience, embargo, government action, Act of Public Authority, Act of God, or any other causes beyond their control, except labor disruption. Should the Force Majeure last longer than thirty (30) calendar days, the Town may terminate the Agreement.

12. LEGAL REQUIREMENTS

- 12.1. The Contractor shall ensure that the Services comply with all relevant legislation including codes, bylaws and regulations as well as Town policies and procedures. Where there are two or more laws, ordinances, rules, regulations or codes applicable to the Services, the more restrictive shall apply.
- 12.2. The Contractor shall apply and pay for all necessary permits or licences required for the performance of the Services.
- 12.3. The Contractor shall at all times observe all the provisions of the *Labour Relations Code*, RSA 2000, c L-1, *Workers' Compensation Act*, RSA 2000, c W-15, *Environmental Protection and Enhancement Act*, RSA 2000, c E-12 (the "EPEA"), and the *Occupational Health and Safety Act*, RSA 2020, c O-2.2 (the "OHSA") as well as rules and regulations pursuant thereto. In the event the Contractor fails to comply with any legislation or any regulations there under and the Town is required to do any act or thing or take any steps or pay any sums to rectify such non-compliance, the Town may subtract the cost of any such rectifications from any monies owed to the Contractor. Such action shall not be deemed a waiver of any action that the Town may pursue to collect any monies paid herewith that exceed the monies owed to the Contractor.
- 12.4. Without limiting the foregoing, the Contractor represents and warrants that it holds Workers Compensation Board (WCB) Clearance Status and shall continue to hold such status at all times throughout the performance of the Services. If at any time the Contractor's WCB Clearance Status is revoked or suspended, the Town may, without limitation to any other rights or remedies hereunder, immediately suspend the Services at the Contractor's cost until the WCB Clearance Status has been restored, or may terminate this Agreement in accordance with Section 7.1.
- 12.5. The Contractor shall be responsible for the safety of workers and equipment on the Project as the Prime Contractor for the work and the worksite under the OHSA, and for the protection of the environment in relation to the Project. The Contractor shall bring to the attention of all Subcontractors all pertinent provisions of the OHSA and the EPEA and regulations thereunder.

13. ASSIGNMENT AND AMENDMENT

- 13.1. The Contractor shall not, without the prior written consent of the Town, assign or in any way transfer its interest in or obligations under this Agreement to any other party. The Contractor acknowledges and accepts that the Town has chosen the

Contractor to perform the Services because of the reputation of the Contractor and the qualifications of the persons identified in the Proposal, and the Contractor therefore agrees that the Town may in its absolute discretion refuse to accept any assignment or transfer of the Contractor's interest in or obligations hereunder, even if such refusal may be construed to be arbitrary or unreasonable.

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

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

14. **NOTICES**

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

a) To the Contractor at:
[NAME & ADDRESS]

b) To the Town at:
The Town of Peace River
PO Box 6600
9911 – 100 Street
Peace River, Alberta T8S 1S4
Attention: Chief Administrative Officer

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

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

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

15. **SINGULAR AND MASCULINE**

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

16. **LAWS OF ALBERTA**

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

17. **INTERPRETATION**

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

17.2. If any provision of this Agreement is for any reason, found to be invalid or unenforceable by a body of competent jurisdiction, that provision shall be deemed severed from this Agreement and such invalidity, illegality or unenforceability shall not affect the validity of any other of its provision.

18. **SUCCESSORS**

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

19. This Agreement may be executed in several counterparts each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument. Signatures delivered by PDF or other electronic means shall be as effective as delivery as an original.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF the parties have signed by the hands of the proper officers, duly authorized this ___ day of _____, 2023.

TOWN OF PEACE RIVER

_____(c/s)
Per:

[CONTRACTOR]

_____(c/s)
Per: