



THE MUNICIPALITY OF THE COUNTY OF
LA MUNICIPALITÉ DU COMTÉ DE
RICHMOND

Municipality of the County of Richmond
2357 Highway 206, P.O. Box 120
Arichat, Nova Scotia B0E 1A0
Telephone: (902) 226-2400

REQUEST FOR QUOTE (RFQ)
Tender # MOCR202201

RFQ – Fuel Oil Tender

Municipality of the County of Richmond

Important Notes for Bidding:

- The complete tender document is comprised of this RFQ specifications document (29 pages). Please contact the procuring entity if any pages are missing.

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1.0 Introduction

1.1 RFQ Objectives

This Request for Quotes (RFQ) is an invitation to prospective Proponents to submit quotes for the supply of fuel oil for Municipal facilities and equipment. This RFQ is issued by the Municipality of the County of Richmond (the "Municipality").

1.2 RFQ Schedule

Below is the schedule that is expected to be followed for this RFQ. However, this may be subject to change and is therefore presented primarily for guidance:

- RFQ Issue Date: January 12, 2022
- Deadline for Proponents to Submit RFQ Questions: January 26, 2022
- RFQ Responses are due: February 3, 2022, 2 pm AST
- Anticipated RFQ Award: February 11, 2022

1.3 RFQ Contacts

Questions about this RFQ should be directed to the individuals listed below, or their designate(s). Information that is obtained from any other source is not official and may be inaccurate.

Procuring Entity Contact
Chris Boudreau, P.Eng Director of Public Works Municipality of the County of Richmond 2357 Highway 206 P.O. Box 120 Arichat, Nova Scotia, B0E 1A0 Email: caboudreau@richmondcounty.ca Phone: (902) 226-3988 Fax: (902) 226-0060

1.3.1 Asking Questions

The proponent is responsible for obtaining any needed clarification of the RFQ requirements, while the RFQ is open. Questions should be directed **in writing** to the RFQ Contacts identified. **Email is the preferred method of contact.** Only written responses from the RFQ contacts will be considered an official response.

Responses to questions that are deemed by the procuring entity, in its sole discretion to be material to all prospective proponents **will** be made available as an addendum while the RFQ is open, for download from the tender's web site at: <https://procurement.novascotia.ca/>.

2.0 Service Requirements

2.1 Work / Project Description

The tender is for provision of the following fuel requirements:

Facility	Location	Product / Tank Size (L)	Estimated Annual Quantity (Liters)
Richmond Solid Waste Management Facility	634 Highway 206, West Arichat	Ultra Low Sulphur Diesel Fuel (900 Liter)	15,500
Richmond Solid Waste Management Facility	634 Highway 206, West Arichat	No. 1 Furnace Oil (900 Liter)	5,000
Municipal Administration Building	2357 Highway 206, Arichat	Ultra Low Sulphur Diesel Fuel (1,000 Liter)	750
Municipal Administration Building	2357 Highway 206, Arichat	No. 1 Furnace Oil (2,200 Liter)	15,000
Richmond Arena	3122 Whiteside Road, Louisdale	No. 1 Furnace Oil (900 Liter)	13,000
N/A	Service Stations / Cardlocks within primary base of operations (Isle Madame, Louisdale)	Gasoline, Regular Unloaded, 87 Octane, for Fleet Vehicles	30,000

Quantities noted above are not to be considered as guaranteed minimum quantities. The Municipality reserves the right to deviate from the estimated quantities and / or cease delivery to a particular location should building occupancy no longer require it.

Bids are to be submitted on the enclosed Form of Tender (appendix B) for an "Automatic Delivery Service" whereby the supplier is responsible for maintaining fuel in the tanks at all times.

3.0 Administrative and Legal Requirements

3.1 Business Registration

Proponents are required to be registered to carry on business in accordance with applicable laws.

The status of a proponent's business registration does not preclude the **submission** of a proposal in response to this RFQ. A proposal can be accepted for evaluation, regardless of (i) whether the company is registered, or (ii) whether its business registration is in good standing. However, a contract cannot be awarded unless the successful proponent is registered and in good standing, in accordance with applicable laws.

For information on the business registration requirements of the Nova Scotia Registry of Joint Stock Companies, please consult, <http://www.gov.ns.ca/snsmr/access/business/registry-joint-stock-companies>.

If the proponent's business is not required to register in Nova Scotia, the proponent will be required to submit registration from your applicable Provincial jurisdiction.

3.2 Contract

After the evaluation, the successful proponent(s) will be required to sign the contract that will constitute the legal agreement with the procuring entity for this project and govern all aspects of the services/goods to be delivered. It will incorporate the relevant terms of this RFP and the provisions of the successful proposal as determined by the procuring entity, and any other terms as the procuring entity may require.

3.2.1 Contract Terms

The initial contract will be for provision of the following fuel requirements for the three (3) year period from April 1, 2022 to March 31, 2025 with the option to extend the contract for two (2) additional one (1) year periods beyond the initial contract period subject to agreement from both parties.

The standard services contract is included as Appendix D.

3.2.2 Declaration of Contract Intentions

As outlined in Appendix C, the proponent should prepare a declaration of its intentions regarding the contract. The declaration **should be included with your proposal** as a separate document. Failure to include a completed declaration may be grounds for disqualification.

If the proponent wishes to request alterations to the standard services contract, **these should be identified in the declaration**. The extent of the deviations from the contract provided will be taken into account when evaluating proposals. The proponent who requests changes to the contract risks having its score significantly reduced. Therefore, requested alterations should reflect only those changes that the proponent considers to be vital.

3.3 Other Important Provisions

3.3.1 Addenda and Addenda Acknowledgement

Proponents are responsible to ensure that they are aware of and have complied with any addenda issued in respect of this RFQ, by visiting the Provincial Procurement Services Web portal site at <http://www.gov.ns.ca/tenders>.

Responding to this RFQ **may** require the acknowledgement of a specific addendum or multiple addenda as part of the submission. Acknowledgement requirements, whether optional or mandatory, will be specified in the applicable addendum. The proponent must monitor the Procurement Services website for any addenda that may be issued during the open period of the RFQ.

3.3.2 Constraints

The '*Personal Information International Disclosure Protection Act*' of Nova Scotia (PIIDPA), creates obligations for the Government of Nova Scotia and its service providers when personal information is collected or use and disclosure of personal information. Provisions related to PIIDPA requirements are included in the contract terms. A copy of the Act is available online at:

<http://nslegislature.ca/legc/statutes/persinfo.htm>

The parties acknowledge and agree that all materials and information provided to the procuring entity shall be kept confidential, subject to the provisions of the Nova Scotia Freedom of Information and Protection of Privacy Act (FOI/POPA; S.N.S. 1993, c. 5) and the laws of Nova Scotia and Canada generally. Information about the Act is available online at:

<http://nslegislature.ca/legc/statutes/persinfo.htm>

3.3.3 Conflict of Interest

The procuring entity reserves the right to disqualify any proponent that in the procuring entity's sole opinion has an actual or potential conflict of interest or an unfair advantage in respect of this RFQ, whether existing now or is likely to arise in the future, or may permit any such proponent to continue and impose such terms and conditions on that proponent, as the procuring entity in its sole discretion may require.

Proponents are required to disclose, to the RFQ Contacts, any potential or perceived conflict of interest issues immediately upon becoming aware of any such conflict.

Information about the Nova Scotia *Conflict of Interest Act* (S.N.S. 2010, c. 35) can be found at:

3.3.4 Revision of Tender Submissions

Revisions to Tender Submissions are to be submitted by signed letter only and delivered directly to the Municipality at the address at 1.3 above or transmitted by fax machine to the fax number also provided. Only the Tenderer's entries on the delivered Tender Submission may be revised. The revision must state only the amount by which a figure is to be increased or decreased, or specific directions as to the exclusion or inclusion of particular words. Revisions will be accepted only if received prior to the Closing. It is the Tenderer's responsibility to ensure that any revision has been received prior to closing.

3.3.5 Informal or Unbalanced Tender

Tender submissions which, in the opinion of the Municipality, are informal or unbalanced may be rejected.

3.3.6 Right to Reject; Financial Stability; Non-Compliance

3.3.6.1 Failure to comply with any of the mandatory terms or conditions contained or referenced in the Solicitation documents shall result in the rejection of the Bid.

3.3.6.2 All of the terms, conditions and/or specifications stated or referenced in the Solicitation are assumed to be accepted by the Bidder and incorporated in the Bid.

3.3.6.3 Bidders may be required to demonstrate financial stability, authorization to provide the goods/services being acquired, and/or regulatory agency approval, licensing or registration as needed, or otherwise clarify Bidder's capability to satisfy the Solicitation requirements. The Procuring Entity reserves the right to reject Bids from any Bidder that it believes is incapable of providing the necessary labour, materials, equipment, financing or management resources to perform the work or supply the goods in a satisfactory and timely manner.

- 3.3.6.4 The Procuring Entity reserves the right to waive minor non-compliance where such non-compliance is not of a material nature in its sole and absolute discretion, or to accept or reject in whole or in part any or all Bids, with or without giving notice. Such minor non-compliance will be deemed substantial compliance and capable of acceptance. The Procuring Entity will be the sole judge of whether a Bid is accepted or rejected.
- 3.3.6.5 The Procuring Entity reserves the right to split an award amongst Bidders as deemed in the best interests of the Procuring Entity.

3.3.7 Other Entities

The Supplier agrees to make available the goods and services as defined in this agreement (with the exception of the Unleaded Gasoline pricing at service stations) to Richmond County Volunteer Fire Departments (Listed in Appendix A) on the terms and conditions set out in this agreement (including, but not limited to pricing). The Volunteer Fire Departments eligible to participate in this agreement shall enter into a separate contract with the Supplier. The Supplier may only provide the goods and services specified in this agreement to by entering into a separate contract with them. The contract with the Volunteer Fire Departments (hereinafter referred to as "the Entity") shall contain the following minimum terms:

- 3.3.7.1 The Supplier and the Entity acknowledge and agree that the Municipality shall not have any contractual or financial obligation, or any liability of any kind or nature whatsoever to either the supplier or the Entity for any matter arising under the Entity agreement or through the provision of goods and services specified in this agreement and, without limiting the generalities of the foregoing, the Supplier and Entity acknowledge and agree that:
- The Municipality will not be liable or responsible for any act or omission of the Entity in relation to Entity's access to the provisions of goods or services under this agreement;
 - The Entity shall make its own enquiries and satisfy itself as to the suitability of the supplier or its products or services for the Entity;
 - The Entity shall be responsible for obtaining its own professional advice, including its own independent legal advice, and for including any additional business and legal terms and conditions in the Entity agreement as may be necessary and appropriate in its specific circumstances;
 - The Entity shall be responsible for its own contract administration with the Supplier and shall not direct any Supplier service issues that may arise to the Municipality; and

4.0 Proposal Format

To help ensure consistency in proponent responses and facilitate the evaluation process, the proposal should be prepared and packaged, as outlined in the sections that follow. Please print double-sided whenever possible and limit promotional and/or marketing materials to the information specifically requested in this RFQ.

4.1 RFQ Proposal Package

A complete proposal package is comprised of the elements below, presented in the order listed:

- One (1) x Business Registration Profiles**
- One (1) x Form of Tender (Appendix A)**
- One (1) x Declaration of Contract Intentions**

Proponents may submit hard copies or may submit electronically in a Portable Document Format (PDF) file and send it directly to the contact person via email (please confirm receipt) or send a storage device if preferred. The file name should include an abbreviated form of the proponent's name and RFP # MOCR202201. Copies must be virus-free.

4.2 External Packaging (where applicable)

Where hard copies are submitted please ensure the external packaging reflects the information listed below:

- Proponent's name
- RFQ # MOCR202201 – Fuel Oil Tender

4.3 Pricing Response

Proponents shall complete the Form of Tender in Appendix B.

5.0 Proposal Evaluation

5.1 General Information

The Evaluation Team will consist of representatives of the procuring entity, and may include other representatives as deemed appropriate by the procuring entity. It is understood and accepted by the proponent that all decisions about the degree to which a proposal meets the requirements of this RFQ are in the sole determination of this Evaluation Team.

To assist in the evaluation of proposals, the Evaluation Team may, but is not required to:

- Conduct reference checks relevant to the proposal with any or all of the references cited in a proposal to verify information regarding a proponent and rely on and consider any relevant information from such cited references in the evaluation of a proposal.

Conduct any background investigations that it considers necessary and consider any relevant information resulting there from.

- Seek clarification from a proponent with respect to their proposal. Such clarification **will not** offer the proponent the opportunity to change or provide new information. To the extent possible, requests made by the Evaluation Team will be sent from the email addresses of the RFQ Contacts.

A proposal will be examined in accordance with the evaluation process and criteria outlined in the sections below.

5.2 Evaluation Process

The proposal will be evaluated using the following process:

- Stage 1: Proposal will be reviewed to determine compliance with all mandatory criteria identified in section 5.3.
- Stage 2: Proposals that meet all mandatory criteria will be evaluated based on the criteria identified in section 5.4.

5.3 Stage 1 – Mandatory Criteria

A proposal must meet **all** of the following mandatory criteria and clearly demonstrate that these are met. If a proposal fails to meet **any one** of these criteria, it will be deemed non-compliant and will be rejected.

1. Appendix B, Form of Tender, must be completed and included in the proposals.

5.4 Stage 2 – Evaluation Criteria

If a proposal meets the Mandatory Criteria it will be evaluated based on pricing response.

Notes:

The pricing will be determined as follows:

$$\text{Price} = (\text{Supplier's Margin} \times \text{Estimated Volume Per Year}) - (\text{Pump Price Discount} \times \text{Estimated Volume Per Year})$$

Proponents to specify location and number of fuel oil trucks as well as response time in case of fuel emergency. Please note any applicable surcharge for emergency deliveries. Proponents with vehicles stationed within the Municipality, near the serviced locations, may be shown preference where price varies by less than 10%.

Appendix A: List of Richmond County Volunteer Fire Departments

Fire Department	Address	Contact Information
Isle Madame Volunteer Fire Department	P.O. Box 279 5125, Hwy 320 Arichat, NS B0E 1A0 (902) 226-3660	Fire Chief: Mark Skinner C: 902 631 3205 E: capebretondiver@hotmail.com Deputy Chief: Jerod David C: 902-631-2962
District #10 Volunteer Fire Department	RR#1 Red Islands 14799, Hwy #4 St. Peter's, NS B0E 3B0 Fire Hall: (902) 535-3375	Fire Chief: Scott Magdy C: 902-631-5873 E: smagdy63@hotmail.com Deputy: Peter Campbell C: 902-578-9959 E: richmondtrans@seasidehighspeed.com
Framboise-Fourchu Volunteer Fire Department	46 Stirling Rd Framboise, NS B2J 1B9 Fire Hall: 884-2010 ffvfd@live.com E: framboisefire@outlook.com	Fire Chief: Douglas Morrison C: 902-884-2024 C: 902 304 2268 E: framboisedude1@hotmail.com Deputy Chief: Daryl Gwynn C: 902-884-2352 E: darrylgwynn3@gmail.com
Grand River Volunteer Fire Department	11 Grand River East P.O. Box 37 Grand River, NS B0E 1M0 Fire Hall: (902) 587-2966	Fire Chief: Kelvin MacKay C: 902-302-0495 E: kelvinmackay59@gmail.com Deputy Chief: Wayne Colette H: 902-227 8739 E: wayne.collet@novascotia.ca
L'Ardoise Volunteer Fire Department	2160 Hwy 247 P.O. Box 24 Lower L'Ardoise, NS B0E 1W0 Fire Hall: 587-2621	Fire Chief: Stanley Sampson C: 902 587-5326 E: lvfd2621@outlook.com Deputy Chief: David MacLeod C: 902-631-2012 E: d.macleod.49@hotmail.com
Loch Lomond Volunteer Fire Department	1177 Passage Rd Loch Lomond, NS B2E 1C4 Fire Hall: 822-3340	Fire Chief: Colin McPherson C: 902-833-2091 E: Enon306@msn.com Deputy Chief: Luca Batschelet C: 902-822-1082 E: Batschelet@Outlook.com
Louisdale Volunteer Fire Department	RR#1, 6457 Hwy #4 Louisdale, NS B0E 1V0 Fire Hall : 345-2157	Fire Chief: Aaron Marchand C: 902-227-8246 E: aaron@paveproolutions.com Deputy Chief: Evan Marchand C: 902-623-1059 E: evanzmarchand@gmail.com
West Bay Road & District Volunteer Fire Department	644 Cenotaph Rd West Bay Rd, Inv. Co., NS B0E 3L0 Fire Hall: 625-1796	Fire Chief: Paul Shears H: 902-625-3121 E: paul.shears@hotmail.com Deputy Chief: Dan Shaw H: 902-623-2469 E: danshaw_81@hotmail.com
St. Peter's Volunteer Fire Department	P.O. Box 221 22 Toulouse St. St. Peter's, NS B0E 3B0 (t) 535-2568/(f) 535-3188	Fire Chief: Blair Stone C: 902-535-2587 E: stpetersfire@seaside.ns.ca Deputy Chief: Marvin MacLean, C: 902-535-2137/535-3188 E: kin-excel@ns.aliantzinc.ca

Appendix B: Form of Tender

B.1. Declaration of Tenderer

The Tenderer declares the following:

- B.1.1 This Tender is made without collusion or fraud.
- B.1.2 He/She has carefully examined the proposed work and carefully examined the Tender Documents and taken all the forgoing into consideration in preparation of this Tender.
- B.1.3 Addenda numbers _____ to _____, inclusive were carefully examined by the Tenderer.

B.2. Agreement of Tenderer

The Tenderer agrees to the following:

- B.2.1 The Tenderer agrees to enter into a Purchase Agreement to supply the equipment for the price stated in section C.3 of this Form of Tender and as described in Appendix B hereto attached, and in accordance with the RFQ.
- B.2.2 This Tender is valid for acceptance for 60 days from the time of Closing.
- B.2.3 Failure to enter into a contract for provision of said goods within a period of two weeks after formal award may result in disqualification of the tenderer's bid.

B.3. Schedule of Prices

B.3.1 Bidders are advised that the Municipality of the County of Richmond will pay to the successful bidder the current Petro Canada Unbranded Rack Price for No.1 Furnace Oil and Ultra Low Sulphur Diesel for Halifax published on Saturday of each week, plus HST, plus Federal Excise Tax, plus a Suppliers Margin on these costs. Bidders are requested to bid on the basis of the Suppliers Margin for both No.1 Furnace Oil and Ultra Low Sulphur Diesel Fuel.

B.3.2 Bidders are advised that the Municipality of the County of Richmond will pay to the successful bidder the current posted price for self-serve regular unleaded gasoline, less the bidders quoted discount from posted pump prices. Bidders who do not have service stations within the primary bases of operation of Isle Madame and Louisdale may leave the section for regular unleaded gasoline blank. Zero (0) will be used as the discount for calculation purposes.

B.3.3 Quantities for Request for Quotation are estimates only.

Product / Location	Estimated Volume / Year	Supplier's Margin \$ / L	
No. 1 Furnace Oil	37,000 L		
Ultra-Low Sulphur Diesel Fuel	16,250 L		
Product / Location	Estimated Volume / Year	Discount from Posted Self-Serve Pump Prices \$ / L	
Regular Unloaded Gasoline (87 Octane) at Service Stations **	30,000 L		
Vehicle Location (s)	Number of Vehicles	Response Time	Additional Fee

** Please specify service station or cardlock locations. Stations / cardlock locations must be located within primary base of operations (Isle Madame or Louisdale) and method of billing must be suitable to the Municipality.

Signatures

Dated this _____ day of _____, 2022

Name of Tenderer: _____

Address: _____

Signed by: _____

(Printed Name)

(Title)

Seal of Tenderer:

Place Company Seal here

Appendix D – Standard Services Contract

THIS AGREEMENT made this ___nd day of _____, 2022.

(Ref: **REQUEST FOR QUOTATIONS MOCR202201 for the Municipality of the County of Richmond**)

BETWEEN:

**THE MUNICIPALITY OF THE COUNTY OF RICHMOND,
(the "Municipality")**

OF THE FIRST PART

- and -

(the "Supplier")

OF THE SECOND PART

WHEREAS the Municipality issued the above referenced Request for Quotations dated January 12, 2022, (the "RFQ"), inviting submission of Quotations to provide the Services, as hereinafter defined;

AND WHEREAS the Supplier submitted a Quotation to the Municipality dated February 3, 2022, (the "Quotation") in response to the RFQ;

AND WHEREAS the Municipality has agreed to retain the Supplier to provide the Services, subject to the parties entering into an agreement with respect thereto;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements set out herein, the Supplier and the Municipality covenant and agree as follows:

1.0 SERVICES AND TERM

- 1.1 The Supplier agrees to provide and deliver the services and/or products and perform the work (collectively the "Services") described in Schedule A hereto, in accordance with the terms and conditions of this Agreement, during the period commencing on the 1st day of April, 2022, and expiring on the 31st day of March, 2025 (the "Term").
- 1.2 The Supplier shall provide the Services and discharge its duties to the Municipality hereunder in a competent, professional and timely manner, and shall assign only duly qualified, competent and skilled personnel to carry out its obligations to the Municipality under this Agreement.
- 1.3 The Services shall be delivered on time and in accordance with the delivery schedule agreed to by the Municipality and conform in all respects with the Municipality's requirements. The Services shall not be deemed to be completed to the satisfaction of the Municipality or accepted by the Municipality until all requirements have been met by the Supplier in accordance with the terms and conditions hereof.
- 1.4 The agreement may be extended for two (2) additional one-year terms subject to written approval from both parties.

2.0 PRICE AND PAYMENT

- 2.1 Deleted

- 2.2 The Municipality shall, subject to the terms and conditions of this Agreement, pay the Supplier for the Services in accordance with Schedule B.
- 2.3 Each invoice submitted by the Supplier for payment shall contain a detailed description of the Services in respect of which it is being remitted, and all such other information as specified by the Municipality from time to time for inclusion therein. Subject to verification by the Municipality, invoices will be paid thirty (30) days following receipt.
- 2.4 Deleted
- 2.5 Deleted
- 2.6 If the Supplier is not a resident of Canada, the Supplier acknowledges and agrees that the Municipality shall be authorized, if required by law, to withhold income tax from any amounts payable to the Supplier hereunder and to remit that tax to the Receiver General for Canada on the Supplier's behalf.

3.0 TERMINATION OF AGREEMENT

- 3.1 The Municipality shall be entitled to immediately terminate this Agreement for cause, upon the occurrence of any of the following events, each of which shall constitute an "Event of Default".
 - a) The Supplier breaches or fails to comply with any of the terms and conditions of this Agreement, and such breach or failure is not remedied by the Supplier to the reasonable satisfaction of the Municipality within five (5) days after written notice from the Municipality to remedy the breach or failure;
 - B) The Supplier becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of creditors, or otherwise acknowledges its insolvency, or a receiver or receiver manager is appointed for any property of the Supplier; or
 - c) Any statement, representation or warranty made by the Supplier in its Quotation or in this Agreement is untrue or incorrect at the time it was made.
- 3.2 If this Agreement is terminated for cause pursuant to Article 3.1 as a result of an Event of Default, the Supplier shall be responsible for and shall reimburse the Municipality for all loss, costs and damages incurred by the Municipality as a result of or arising from the Event of Default, including any costs incurred by the Municipality to correct any defects or deficiencies in any of the Services, and any costs incurred by the Municipality to procure the Services or any part thereof from another provider.
- 3.3 The Municipality may, at its sole discretion, terminate this Agreement without cause at any time prior to the expiration of the Term, upon giving thirty (30) days prior written notice of termination to the Supplier. In such event, the Supplier shall be entitled to receive payment for the Services it has satisfactorily performed up to the date of termination, and where applicable, to the payment of any holdback which the Municipality is then holding at such time. Payments to the Supplier of the foregoing amounts shall constitute full and final satisfaction of the Municipality's obligations to the Supplier under this Agreement. In the event this Agreement is terminated by the Municipality pursuant to this Article 3.3, the Supplier shall not be reimbursed for any profits that may have been anticipated but not earned up to the termination date, and the Supplier shall not have any claim or entitlement to any additional compensation or damages arising from such termination.
- 3.4 Neither the expiration nor the earlier termination of this Agreement shall relieve, or be deemed to relieve, the Supplier from any duties, obligations or liabilities hereunder that

accrued prior to such expiration or termination, or which by their nature are intended to survive the expiration or earlier termination of this Agreement, including but not limited to all warranties given by the Supplier in respect of the Services, and those duties and obligations of the Supplier set out in Article 4 (Confidentiality), Article 5 (Material Rights), Article 8 (Liability and Indemnity) and Article 15. (Accounts and Audit).

4.0 CONFIDENTIALITY

- 4.1 The Supplier acknowledges and confirms that all information provided to it by the Municipality hereunder, or to which the Supplier has access as a result of providing the Services to the Municipality is confidential information ("Confidential Information"). Unless required by law or an order of a court of competent jurisdiction, such Confidential Information shall not, either during the Term or at any time thereafter, be disclosed by the Supplier, without the prior written consent of the Municipality, to any third party or to any employees of the Supplier, other than its employees who are directly involved in providing the Services.
- 4.2 The Supplier shall implement and maintain security standards and procedures for the safeguarding of the Municipality's Confidential Information to prevent unauthorized access thereto and to ensure compliance with applicable legislation. The Supplier agrees to promptly notify the Municipality in writing upon becoming aware of a breach of either the Supplier's security standards and procedures or the Municipality's security policies, or any unauthorized disclosure of information that the Supplier is required to keep confidential under applicable law. The Supplier shall take immediate steps to mitigate any breach or unauthorized disclosure described in this Article 4.
- 4.3 The Supplier acknowledges and agrees that the Municipality may disclose this Agreement or portions thereof as may be required pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act (Nova Scotia)*.
- 4.4 If the Supplier is a "service provider" as defined in the *Personal Information International Disclosure Act, (Nova Scotia)* ("PIIDPA") as a result of the type of Services that it is providing to the Municipality under this Agreement, the Supplier represents, warrants and undertakes to the Municipality that it shall comply with its obligations under PIIDPA and the terms and conditions contained in the PIIDPA Schedule, attached as Schedule C to this Agreement.

5.0 MATERIAL RIGHTS

- 5.1 Deleted
- 5.2 Deleted
- 5.3 Deleted
- 5.4 Deleted
- 5.5 Deleted

6.0 INDEPENDENT CONTRACTOR

- 6.1 This Agreement is a contract for the performance of the Services. The Supplier is engaged by the Municipality hereunder as an independent contractor and shall not at any time hold itself out as an employee, servant or agent of the Municipality. No partnership, joint venture, agency or other legal relationship is created or deemed to be created by this Agreement or any actions of the parties hereunder. The Supplier shall not have authority under this Agreement to bind the Municipality, or to commit the

Municipality to the payment of money to any third party

7.0 COMPLIANCE WITH LAWS

- 7.1 The Supplier shall comply with all applicable laws governing the conduct of its business and the provision of the Services to the Municipality. The Supplier agrees to maintain in good standing all licences, permits, registrations or authorizations it is required to obtain in order to lawfully provide the Services in Nova Scotia. Without limiting the foregoing, professional personnel performing any part of the Services on behalf of the Supplier shall be required to comply with all applicable professional registration or licensing requirements in effect in Nova Scotia at the time such Services are being performed.
- 7.2 Neither the acceptance of the Supplier's Quotation, nor the execution of this Agreement by the Municipality, shall be or deemed to be approval or authorization by the Municipality to anything related to the business or operations of the Supplier or the provision of the Services that requires any permit or licence or approval pursuant to federal, provincial or municipal legislation, regulations or bylaws.
- 7.3 The Supplier shall promptly provide to the Municipality, upon request, copies of all permits, licences, authorizations and registrations that it is required to obtain in order to provide the Services, as well as evidence of the Supplier's compliance with laws applicable to the performance of the Services, including without limitation, the *Workers' Compensation Act (Nova Scotia)* and the *Occupational Health and Safety Act (Nova Scotia)*

8.0 LIABILITY AND INDEMNITY

- 8.1 The Supplier shall indemnify and hold harmless the Municipality, its employees, servants and agents from and against all damages, costs, loss, expenses (including legal fees), claims, actions, suits or other proceedings of any kind or nature, which they, or any of them, may at any time incur or sustain as a result of or arising out of an Event of Default, or any act, omission or negligence of the Supplier, or any of its employees, servants, agents, or subcontractors, in the performance of this Agreement, including without limitation, any injury or death to persons, or loss of or damage to property. Notwithstanding the foregoing, the Supplier shall not be liable for any indirect or consequential damages sustained by the Municipality unless such damages result from the negligence or wilful default of the Supplier, its servants, agents or subcontractors.
- 8.2 The Municipality shall not be liable for any damages or injury (including death) to any person or to any property of the Supplier as a result of or arising out of this Agreement or the provision of the Services by the Supplier under this Agreement, unless such damages are direct damages and are caused solely and directly by or as a result of the negligence of the Municipality. In no event shall the Municipality be liable for any indirect or consequential damages that are sustained by the Supplier, howsoever caused, as a result of or arising out of this Agreement or the provision by the Supplier of any Services hereunder.

9.0 RESOURCES

- 9.1 In the event that the Supplier requires access to equipment or office space of the Municipality in order to carry out any part of the Services, the Supplier shall comply with all applicable safety and security legislation and all policies and directives of the Municipality relating to any buildings, premises, equipment or software to which the Supplier is given access.
- 9.2 Deleted

10.0 TITLE AND ACCEPTANCE

10.1 Deleted

10.2 Deleted

11.0 FORCE MAJEURE

- 11.1 The Supplier shall not be liable for a failure or delay in performing any of its obligations hereunder that occurs without the fault or negligence of the Supplier and is attributable solely to a cause beyond its reasonable control ("Force Majeure Event"). For the purposes of this Agreement, the following shall be considered to be a Force Majeure Event: floods, fire, explosion, power failure, acts of God, war, civil commotion, the enactment of any law, order, regulation or bylaw, labour strikes, slowdowns, picketing and boycotts
- 11.2 Where the Supplier claims that a Force Majeure Event has occurred, the Supplier shall be required to give immediate written notice thereof to the Municipality, which notice shall describe the Force Majeure Event, its cause, the probable duration of the delay resulting therefrom, and the steps being taken by the Supplier to mitigate the impact of the Force Majeure Event on the performance of the Supplier's obligations hereunder.
- 11.3 Notwithstanding the foregoing provisions of this Section 11, if a delay or failure arising from a Force Majeure Event continues for ten (10) consecutive, the Municipality may, in its sole discretion, terminate this Agreement upon three (3) days prior written notice to the Supplier. In the case of termination by the Municipality pursuant to this Article 11.3, the Supplier shall be entitled to receive payment only for the Services provided prior to the termination date which have met the requirements of this Agreement, and such payment shall constitute full and final satisfaction of the Municipality's obligations to the Supplier hereunder.

12.0 REPRESENTATIONS AND WARRANTIES

- 12.1 The Supplier represents and warrants to the Municipality, with the intention and knowledge that the Municipality is relying on each such representation and warranty in entering into this Agreement, that:
- a) All statements contained in the Supplier's Quotation, and any certificate or other document delivered to the Municipality under this Agreement or in connection with the Services to be provided hereunder are true and correct;
 - b) The Supplier has no knowledge of any fact that may materially adversely affect the Supplier's business or operations or its financial condition, or its ability to fulfill its obligations to the Municipality under this Agreement;
 - c) The Supplier has the personnel, experience, qualifications and other resources to provide the Services in accordance with the requirements of this Agreement;
 - d) The Supplier has the corporate power and legal capacity to enter into, fully perform, and meet all of its obligations under this Agreement on the terms and conditions set out herein;
 - e) This Agreement has been duly authorized, executed and delivered by the Supplier and constitutes a valid and binding obligation of the Supplier; and
 - f) The Supplier can perform the Services, and the Municipality shall be entitled to utilize the Services, in accordance with the requirements of this Agreement without infringing any trade secret, patent, copyright, industrial design or other intellectual property right enforceable in Canada, and the Supplier has obtained, and will maintain, at its own expense, all requisite and appropriate authorizations and permissions, including those concerning any licenses, assignments, copyrights, patents and other intellectual property rights that are required by the Supplier to meet its obligations to the Municipality hereunder.

13.0 CONFLICT OF INTEREST

- 13.1 The Supplier shall not permit an actual or potential conflict of interest to arise between its obligations to the Municipality under this Agreement and its obligations to any third party. The Supplier shall immediately notify the Municipality in writing if any such potential or actual conflict of interest should arise at any time during the Term.

14.0 ASSIGNMENT AND SUBCONTRACTING

- 14.1 The Supplier shall not assign this Agreement or any of its rights or obligations hereunder, or subcontract the performance of any of the Services without the prior written consent of the Municipality, which consent may be withheld by the Municipality in its sole discretion. Any purported assignment or subcontracting by the Supplier without such consent shall be of no force or effect.
- 14.2 The Municipality's consent to an assignment of this Agreement, or the subcontracting of the performance of any of the Services to be provided by the Supplier hereunder, shall not relieve the Supplier from any of its obligations under this Agreement and the Supplier shall, notwithstanding any such consent by the Municipality, remain responsible for the performance of the Services and all other obligations of the Supplier set out herein.

15.0 ACCOUNTS AND AUDIT

- 15.1 The Supplier shall keep proper and accurate books and records, including all invoices, receipts and vouchers, relating to the Services and all expenditures and commitments made in connection therewith. The Supplier shall make such books and records available to the Municipality for review or audit within ten (10) days following receipt of a request from the Municipality to do so. The Supplier agrees that it shall retain all such books and records and make them available for review or audit by the Municipality for a period of three (3) years after the date of final payment by the Municipality hereunder. Any review or audit by the Municipality pursuant to this Article 15.1 shall be carried out by the Municipality at the Municipality's expense.

16.0 NOTICES

- 16.1 Any notice to be given under this Agreement by the Municipality or the Supplier shall be in writing and delivered by hand, by facsimile transmission or by registered mail, to the other party at the address and to the attention of the contact individual indicated below:

To The Municipality:

c/o Chris Boudreau
Director of Public Works
Municipality of the County of Richmond
2357 Highway 206, P.O. Box 120
Arichat, Nova Scotia B0E 1A0

To the Supplier:

A notice shall be deemed to be duly given and received upon delivery, if delivered by hand; upon receipt of the facsimile transmission, if the transmission is received by the intended recipient prior to the recipient's close of business (and otherwise on the next business day of the recipient); or three (3) business days after posting, if sent by registered mail with a return receipt. Either party may change its address or contact for receipt of notices, provided that such party gives notice thereof in accordance with this Article 16.1 and confirms the effective date of the change in such notice.

17.0 AGREEMENT AND AMENDMENTS

- 17.1 This Agreement constitutes the entire agreement and understanding between the Supplier and the Municipality with respect to the Services, and supersedes all prior negotiations, communications and other agreements, whether written or oral, relating to the subject matter hereof. Any amendment or modification to this Agreement shall have no force or effect unless it is in writing and signed by duly authorized representatives of each of the Municipality and the Supplier.

- 17.2 The following documents form part of this Agreement:

- a) These Articles of Agreement; and
- b) The Schedules;

In the event of any conflict or inconsistency between or among any of the foregoing, the documents comprising this Agreement shall be given precedence in the following order:

- a) These Articles of Agreement; and amendments hereto;
- b) Schedule A.1;
- c) Schedule A.2;
- d) Schedule B; and
- e) Schedule C (if applicable)

18.0 WAIVER

- 18.1 No term or provision of this Agreement, and no breach of this Agreement by the Supplier, shall be deemed to be waived or excused by the Municipality unless such waiver is in writing and signed by the Municipality. The waiver by the Municipality of any breach of a term or provision of this Agreement shall not be or be deemed to be a waiver of any continuing or subsequent breach by the Supplier of the same or any other term or provision of this Agreement.

19.0 REMEDIES CUMULATIVE

- 19.1 The rights and remedies of the Municipality set out in this Agreement are cumulative, and are in addition to and not in substitution for any other rights or remedies available to the Municipality at law or in equity.

20.0 DISPUTES

- 20.1 If a dispute arises between the Municipality and the Supplier arising out of or relating to this Agreement, or the subject matter hereof, the Municipality and the Supplier agree that they shall each make all reasonable efforts to resolve any such dispute on a timely basis through amicable negotiations. Disputes shall promptly be referred by each party to their respective senior management representatives who have the authority to resolve and settle any such disputes on their behalf. In the event that such representatives cannot resolve the dispute within ten (10) days, or such longer period as the parties may agree in writing, either party may elect, upon giving prior written notice to the other party, to resolve the matter through litigation proceedings. Notwithstanding the foregoing, nothing in this Article 20.1 shall prevent the Municipality from exercising its rights of termination set out in Article 3.1 or Article 11.3 hereof, in the circumstances described therein

21.0 ENUREMENT

- 21.1 This Agreement shall enure to the benefit of and be binding on the Municipality and on the successors and permitted assigns of the Supplier.

22.0 GENERAL

- 22.1 **Municipality's Representative** All references in this Agreement to the Municipality, include any person duly authorized to act on behalf of the Municipality hereunder
- 22.2 **Headings and Interpretation** The division of this Agreement into Articles and the insertion of headings are for convenience of reference only and do not affect its interpretation. Except where the context requires otherwise, references to the terms "herein," "hereof," "hereunder" and similar expressions refer to this Agreement as a whole, and not to any specific Article or Schedule
- 22.3 **Time of the Essence** Time shall be of the essence in this Agreement.
- 22.4 **Currency:** All dollar amounts referred to in this Agreement are Canadian dollars, unless expressly provided.
- 22.5 **Offers of Employment:** Each of the parties agrees that it shall not, without the prior written consent of the other party, at any time prior to the expiration or earlier termination of this Agreement, or within a period of six (6) months thereafter, solicit personnel then in the employ of the other party, who either are, or were, directly involved in the performance or administration of this Agreement, to terminate their employment with that other party.

- 22.6 **Partial Invalidity:** If any term or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, it shall be deemed to be severed from this Agreement, and the remaining terms and conditions shall nevertheless remain in full force and effect.
- 22.7 **Counterparts:** This Agreement may be signed by the Municipality and the Supplier in separate counterparts, each of which when signed and delivered, shall constitute an original and binding agreement for all purposes. Counterparts may be executed in original, faxed form, or portable document format (PDF), provided that the party which submitted its signature in faxed form or in PDF shall promptly forward the originally signed copy of this Agreement to the other party.
- 22.8 **Further Assurances:** The Supplier and the Municipality agree to execute and deliver all such further documents and instruments, and do or cause to be done all such acts and things, as either party may reasonably consider necessary to evidence the intent and meaning of this Agreement.
- 22.9 **RFQ References:** All references in this Agreement to "RFQ" mean and include any amendments that were made thereto by the Municipality.
- 22.10 **Words in the Singular:** Where the context so requires in this Agreement, words in the singular include the plural and vice versa.

23.0 GOVERNING LAW

- 23.1 This Agreement shall be governed by and interpreted in accordance with the laws of Nova Scotia and the laws of Canada applicable therein.

IN WITNESS WHEREOF the Municipality and the Supplier have caused this Agreement to be signed by their duly authorized representatives on the dates set forth below.

WITNESSED BY:

DATED AT _____, _____
____ day of _____, 2022

Witness Signature

For the Supplier

WITNESSED BY:

DATED AT Arichat, Municipality of the County of
Richmond ____th day of _____, 2022

Municipality of the County of Richmond

Witness Signature

For the Municipality

SCHEDULE A

This Schedule A incorporates by reference the documents referred to under each of Schedule A.1 and Schedule A.2:, below:

Schedule A.1 Request for Quotations

RFQ MOCR202201 issued by the Municipality on January 12, 2022, which describes the Services to be delivered by the Supplier to the Municipality

Schedule A.2 Supplier's Quotation

The Supplier's Quotation dated _____, 2022

Supplier's Initials: _____

MOCR Initials: _____

SCHEDULE B

This Schedule describes the payment terms for the Services:

Schedule B.1 Payment

The total amount payable under the Agreement is set out in Article 2.1, and shall be invoiced by the Supplier as follows:

Supplier to invoice monthly based on product delivered.

Payment of Supplier invoices will be made by the Municipality in accordance with the terms of Article 2 of the Agreement and this Schedule B.

Supplier's Initials: _____

SCHEDULE C

MOCR Initials: _____

PERSONAL INFORMATION INTERNATIONAL DISCLOSURE PROTECTION ACT

The Supplier acknowledges and confirms that it is a "service provider" as defined in the *Personal Information International Disclosure Protection Act*, SNS 2006 c. 3 ("PIIDPA"), that it has read and understands its obligations as a service provider thereunder and that as a service provider it is legally bound by the obligations imposed on it by PIIDPA. It is a condition precedent to the Municipality entering into the Agreement with the Supplier that the Supplier irrevocably undertakes, covenants and agrees to be bound by and comply with the obligations imposed on it as a service provider under PIIDPA.

The Supplier further covenants, warrants and represents to the Municipality that it will not at any time provide or allow the release of personal information to which it has access in its capacity as a service provider to the Municipality in response to any "foreign demand for disclosure" or permit or allow the "unauthorized disclosure of personal information" as each of those terms are defined in PIIDPA.

The Supplier shall implement and strictly enforce security arrangements that will ensure that all personal information that it collects or uses on behalf of the Municipality is protected at all times from unauthorized access or disclosure and shall confirm in writing to the Municipality, upon request, the details of such security arrangements. The Supplier also agrees to implement and enforce any additional security procedures as may be required by the Municipality from time to time to protect the personal information that the Supplier collects or uses on behalf of the Municipality. The Municipality shall be authorized, upon giving prior written notice to the Supplier, to enter the premises of the Supplier during normal business hours for the purpose of conducting an audit of the security arrangements referenced herein.

All personal information that the Supplier obtains or becomes aware of while providing services to the Municipality is not and shall not be or be deemed to be the property of the Supplier. The Supplier acknowledges and agrees that it will not, either directly or indirectly, acquire any rights to use or own any such personal information other than the right to use it for the sole purpose of fulfilling its obligations to the Municipality under the Agreement.

The Supplier expressly confirms that the laws of the Province of Nova Scotia shall apply to its obligations as a service provider to the Municipality, notwithstanding the laws or the order of any court outside Canada.

Supplier's Initials: _____

MOCR Initials: _____