

The Corporation of the City of Thorold

Request for Proposal

For

Consulting Services:

**Thorold Community Arenas Replacement Ice Plant
Design and Engineering Services**

CONTRACT NO.: 502CS0004

Request for Proposal No. 502CS0004

RFP Issue Date: Thursday, February 27, 2020

Proposal Submission Deadline: **Thursday, April 16, 2020**
2:00 p.m. Local Time, Thorold, ON

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INVITATION TO PROPONENTS

This Request for Proposal (“RFP”) is an invitation to qualified, professional consultants (the “Proponent”) to submit Proposals for Consulting Services for the preparation of an Engineering Consulting Services (“Services”), to support The Corporation of the City of Thorold (the “Purchaser”) as further described in Part 2 - The Deliverables (the “Deliverables”).

Proponent proposals will provide for complete detailed design drawings, utility coordination, acquisition of all Ministry approvals and tender package preparation for the project. The successful firm will be required to administer the tendering process.

Following the award of the construction contract, the firm may also be requested to provide contract administration and site inspection. However this will be a provisional item, the costs of which will not be included in the overall evaluation of the submissions.

The Preferred Proponent shall be required to enter into an Agreement (“Agreement”) substantially in the form of the Agreement attached as Appendix A - Form of Agreement for the provision of the Deliverables.

The Purchaser intends to award Agreement(s) to only one (1) Proponent. The Agreement will be signed in October 2019 and no obligation on the part of the Purchaser to purchase Services shall arise until such time as the Agreement is signed.

1.0 PURPOSE

The Purchaser is seeking to satisfy the following objectives in issuing the RFP.

- Achieve the best and most innovative solution for the needs of the Purchaser.
- Obtain quality Services at best overall value.
- Enhance customer satisfaction and improvements in Services.
- Facilitate the Purchaser’s purchases without limiting the Purchaser’s choice or negate any other requirement.

2.0 RULES OF INTERPRETATION

The information contained in the RFP is supplied solely as a guideline to Proponents. Such information is not guaranteed, represented, or warranted to be accurate, nor is it necessarily comprehensive or exhaustive.

Nothing in this RFP is intended to relieve the Proponents from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

The Agreement executed with the Proponent will not be an exclusive Agreement for the provision of the deliverables. The Purchaser may contract with others for the same or similar deliverables to those described in this RFP.

This RFP shall be interpreted according to the following provisions, unless the context requires a different meaning:

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- Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender.
- Words in the RFP shall bear their natural meaning.
- References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- In construing the RFP, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- Unless otherwise indicated, time periods will be strictly applied.
- The following terminology applies in the RFP:
 - i. Whenever the terms “must” or “shall” are used in relation to the Purchaser or the Proponents, such terms shall be construed and interpreted as synonymous and shall be construed to read “the Purchaser shall” or the “Proponent shall”, as the case may be.
 - ii. The term “should” relates to a requirement that the Purchaser would like the Proponent to address in its Proposal.

The terms “shall”, “will” or “must” describes a procedure that is intended to be followed.

3.0 DEFINITIONS

The following definitions apply:

“Agreement” has the meaning set out in Appendix A.

“Applicable Law” and “Applicable Laws” means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by-laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time.

“Business Day” or “Business Days” means Monday to Friday between the hours of 8:30 a.m. to 5:00 p.m., except when such a day is a public holiday, as defined in the *Employment Standards Act* (Ontario), or as otherwise agreed to by the parties in writing.

“Conflict of Interest” means any situation or circumstance where, in relation to the performance of its obligations under the Agreement, the Proponent’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could or could be seen to compromise, impair, or be incompatible with the effective performance of its obligations under the Agreement.

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“Days” means calendar days.

“Eligible Proposal” means a Proposal that meets or exceeds a prescribed requirement, allowing it to proceed to the next phase.

“Evaluation Team” means the individuals who have been selected by the Purchaser to evaluate the Proposals.

“Personal Information” means recorded information about an identifiable individual or that may identify an individual.

“Preferred Proponent” means the Proponent(s) that the Purchaser has identified as the highest-ranked Proponent(s) in accordance with the evaluation process.

“Proponent” or “Proponents” means an entity that submits a Proposal in response to this RFP and, as the context may suggest, refers to a potential Proponent.

“Proposal” or “Proposals” means all of the documentation and information submitted by a Proponent in response to the RFP.

“Proposal Submission Deadline” means the Proposal submission date and time as set out in Section 5.1.1 and may be amended from time to time in accordance with the terms of this RFP.

“Purchaser” means The Corporation of the City of Thorold.

“Request for Proposals” or “RFP” means this Request for Proposals issued by the Purchaser for the purchase of the Services, and all addenda thereto.

“RFP Coordinator” means the individual identified in Section 5.2.1.

“Services” means the services intended to be procured pursuant to this RFP.

“Unfair Advantage” means any conduct, direct or indirect, by a Proponent that may result in gaining an unfair advantage over other Proponents, including but not limited to (i) possessing, or having access to, information in the preparation of its Proposal that is confidential to the Purchaser and which is not available to other Proponents, (ii) communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

4.0 SCOPE OF WORK

4.1 Introduction

The City of Thorold has a population of roughly 18,200 people over an area of 8,490 hectares or 21,000 acres. Thorold is situated on the Welland Canal and hold the title of “Canada’s Most Patriotic City.”

The Thorold Community Arenas is a facility comprised of two ice skating pads. The smaller of the two, James Whyte Arena, was originally constructed in 1936, while the Frank Doherty Arena was added to the existing building in 1974. Over the years, several upgrades have been made to the refrigeration system, including installing new compressors, two new shell and tube chillers, and an evaporative condenser throughout the 1990’s. Most recently, the facility replaced the rink floor in the Frank Doherty Arena and added an underfloor heating system in 2017

4.2 General Requirements

The purpose of this Review is to act as the primary design consultant to the City of Thorold in bringing the existing ammonia system at the Thorold Community Arenas up to the latest code requirements in the Province of Ontario as per both the CSA B52-13 and TSSA Operating Engineers Act 2001 regulations.

The City requires a design team to perform a complete evaluation of the existing services and make recommendations on replacement complete with engineering and design to address all code compliancy issues.

The City of Thorold has recently collaborated with the Canada Summer Games 2021; as a result, the 2-pad ice facility is to be reduced to a single pad in the summer of 2022 upon completion of the Canada Games Facility that will be the basis of this design and timing of construction.

4.3 Project Tasks

This assignment will include, but not be limited to, the following project tasks:

a) Overview of Current System:

The existing system is a built up R717 (ammonia) plant with a total of 119kW (160HP) of prime mover nameplate rating. All major equipment except for the evaporative condenser is located within a machinery room. The complex is comprised of two rink pads, one of which (Frank Doherty Arena) operates year-round while the other (James Whyte Arena) operates from October to April of each year.

The Thorold Community Arenas are classified as per the following according to the current B52-13 Refrigeration Code:

Classification of Occupancy: Public Assembly;

Classification of Refrigeration System: Indirect;

Classification of Leakage Probability: Low;

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Classification of Refrigerant: B2 (Ammonia);

The Thorold Community Arenas are also classified as an R12 Refrigeration Plant per the TSSA Operating Engineers Act 2001. This requires the plant to be:

- registered with the TSSA,
- to have Guarded Controls,

to maintain a prime mover (compressor) power rating of less than 200HP (149KW) of maximum brake horsepower as determined by its manufacturer name plate data for its normal continuous operation per TSSA O. Reg. 219/01, s. 9 (1).

Each of the above stipulations is currently being met by the facility.

Review of Existing Information – The City will provide the following information:

- i. Building Condition Assessment for the James Whyte Arena 2019.
 - ii. Ice Plant Condition Assessment 2019
- b) **Utility Coordination** – Provide utility companies with base plans or preliminary design drawings to plot or verify underground plant, and identify potential conflicts. Consultant shall confer with all relevant utility companies including, but not limited to, Canadian Niagara Power, Enbridge, Bell Canada, Allstream and Cogeco to ascertain their requirements and determine their future needs. This task may include co-ordination of test digs including ties (i.e. location and elevation) to existing facilities. The Consultant shall be prepared to clearly indicate, on site, the proposed location of the works, if necessary, for the utility companies.
- c) **Evaluation of the Existing Outlet** – The Consultant shall undertake a review and evaluation of the existing facility to confirm that it will be sufficient to accommodate the proposed changes.
- d) **Landscaping** – The Consultant will identify opportunities to enhance the environment through efficiencies or repurposing / sharing of systems
- e) **Additional Studies/Investigations** – The Consultant shall determine and/or clarify the need for any additional studies, reviews or investigations required to achieve the project and identify the estimated cost of the same;
- f) **Agency Coordination** – The Consultant shall identify and confer with all relevant outside government and non-government agencies, identify and account for the requirements and complete all applications necessary for project approval as necessary. These agencies are typically, but not limited to the Regional Municipality of Niagara, the Ministry of the Environment, the Ministry of Natural Resources, the TSSA, ESA and Emergency Response and Services division.
- g) **Meetings and Correspondence** – The Consultant shall document all correspondence/contact with relevant agencies and provide copies/reports to the City. The Consultant shall maintain regular contact with the City and provide written monthly, or as requested, Project Status Reports. In addition to the specific meetings previously indicated, the Consultant shall make allowance for project coordination meetings, as required;

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The Consultant shall also allow for a minimum of one (1) Public Information Centre (PIC) meeting, two (2) hours in duration to solicit public input regardless of the schedule of EA the project is proceeding under. The Consultant shall prepare public notices regarding the status of the project at various stages and respond to issues or concerns raised from the public. The Consultant shall assume a minimum of three notices (i.e. at the preliminary design stage, detailed design and commencement of construction) to meet the requirements of the latest version of the Municipal Class Environmental Process;

- h) **Sub-Consultant Requirements** – The respondent will identify any Sub-Consultants and Sub-Contractors that will be involved in the engineering component of these projects. Documentation is to be provided from the Sub-Consultants and Sub-Contractors stating that they have reviewed all parts of the detailed project schedule where their skills or expertise are required and are able to meet the timelines/milestones provided in the detailed project schedule;
- i) **Construction Cost Estimates** – The Consultant shall develop a construction cost estimates throughout the development of the project in order to allow the City to budget accurately for construction in 2022.
- j) **Tender Administration Assistance** – The Consultant shall create and tender the final approved design, including:
- i. Prepare tender documents in hard copy and .pdf formats suitable for loading on the City’s electronic bid registration program Biddingo;
 - ii. Coordinate advertising with the City’s Purchasing Department. Deadlines for local advertising is noon Monday each week;
 - iii. Respond to contractor questions, prepare addenda and submit to the City for issuance;
 - iv. Attendance at any meetings during tendering such as test digs, etc;
 - v. Analysis of tenders and bid comparisons; and
 - vi. The provision of a recommendation regarding the tender award.
- k) **Contract Administration**** including general administration services during construction. The Consultant, on behalf of the City, shall ensure that the work conforms to the contract documents, drawings, and specifications. The Consultant shall carry out the duties of “the payment certifier” pursuant to the provisions of The Construction Lien Act, S.O. 1983, Chapter 6. All services to be provided by the Consultant shall conform to the procedures outlined by the TSSA.

**** Contract Administration is not to be established at this time due to the unknown date of construction.**

The extent of the Consultant’s duties with respect to Contract Administration includes general administration and construction inspection as is described below:

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General Administration

- i. Attendance at the pre-construction meeting;
- ii. Advise the construction Contractor on the Consultant's interpretation of the drawings and specifications and issue supplementary details and instructions during the construction period, as required;
- iii. Review for City approval, the construction schedule proposed by the Contractor and comment on the procedures, methods, and sequence of work;
- iv. Review shop drawings submitted for general compliance with the design requirements. Arrange regular site meetings. Minutes to be prepared and distributed to all parties within 7 days;
- v. Consider and advise on alternative methods, equipment, and materials proposed by the Contractor;
- vi. Advise on the validity of charges for additions or deletions and advise on the issue of change orders when requested, including the preparation of change orders;
- vii. Prepare and approve Contractor's progress and final payment certificates;
- viii. Maintain adequate records related to the construction contracts including the issuance of weekly working days statement;
- ix. Working Days Form, Payment Certificates and Change Orders are to be prepared in accordance with the City's Standards;
- x. Make visits to the site at appropriate times during construction to review general conformity of the work with plans and specifications;
- xi. Arrange for the testing and inspection of materials and work, by an authorized inspection and testing company, where the construction contract calls for such testing;
- xii. Attend job meetings as deemed necessary. Record and circulate minutes of the meetings;
- xiii. Report on the construction to the City with respect to progress, cost, and schedules.
- xiv. Obtain warranties and guarantees; and
- xv. Provide a Certificate of Substantial Performance and Final Completion.

Construction Inspection

- i. Report to the City and make recommendations if the Consultant determines that the Contractor is not carrying out his work in accordance with the Contract

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- Documents or that the Contractor's work does not satisfy the intent of the design or does not substantially conform with plans and specifications;
- ii. Arrange for, or carry out, all necessary field-testing and inspection of materials and equipment installed. Results of all tests are to be provided to the City promptly;
 - iii. Investigate, report, and advise on unusual circumstances, which come to the Consultant's attention during construction;
 - iv. Carry out final inspection at the conclusion of the construction contract, at the end of the maintenance period, and as part of the acceptance program of the City;
 - v. Obtain and record field information of construction details for the modification of contract drawings to show the work 'as-built';
 - vi. Maintain sufficient data to determine periodic progress of the work;
 - vii. Review construction Contractor's request for payments as to progress, quantities of work completed, and materials delivered to the site and advise the City accordingly; and
 - viii. Prepare Contractor's Payment Certificates.

4.4 Project Management and Reports

The work undertaken by the Consultant will be overseen and directed by the City of Thorold's Manager of Community Services to which all draft and final reports, cost estimates, and scheduling information will be submitted. Cost estimates shall be updated on a regular basis and upon any major change in the design.

The Consultant shall schedule and chair all project meetings and be responsible for:

- a) The preparation and distribution of meeting agendas prior to the meeting;
- b) The taking of minutes of all meetings and the distribution of the same to all parties within one week of the meeting;
- c) The arrangement of and attendance at each of the Public Information Centres (PIC) including the preparation of notices for public advertisement and information brochures, questionnaires, and comment sheets;
- d) The review of comments received and the preparation of draft responses to comments received during public consultation. Formal responses will be sent out under the City's signature; and
- e) The preparation of a Meeting Summary Report for each PIC.

4.5 Project Deliverables

This assignment shall be completed to the satisfaction of the City of Thorold. The project deliverables shall include, but may not be limited to, the following:

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- a) **Preliminary Design Reports** – The Consultant shall submit a Preliminary Design Report for review that includes commentary on:
- i. Construction cost estimates; and
 - ii. Construction schedule considerations.
- b) **Construction & Tender Documents** - Construction and tender documents shall consist of:
- i. Working drawings to include but not be limited to layout, and details, as required to cost and construct project;
 - ii. Cost estimates at preliminary design, mid-detailed design and post detail design;
 - iii. Draft and final contract bid documents and specifications; and
 - iv. Drawings and Specifications in sufficient quantity for tendering. (Note: One additional set shall be reduced to ledger size for the City); as well, a pdf copy of the tender document and all contract drawings suitable for download to Biddingo.

All drawings shall conform to the Regional Niagara Guide for Production of Engineering Contract Drawings. Specifications shall be based upon the Niagara Peninsula Standard Contract Document, the Ontario Provincial Standards and Specifications and the City of Thorold Standards. All drawings and specifications shall be prepared in accordance with all relevant codes and standards.

All drawings/plans shall be prepared in AutoCAD 2012 format in accordance with the City of Thorold CAD/Drafting Standards and shall be provided in both hard copy and digital CD format. All digital data shall be according to true local coordinates and tied to Municipal control monuments.

5.0 PROJECT TIMING

The following schedule applies to the submission of proposals and the award and execution of this engineering assignment:

Proposal Submission	April 16 th , 2020
Council Approval	May 2020
Commencement of Assignment	Approximately two weeks following Council approval
Design and Review Period	June 2020 – Nov 2020
Tendering	Feb 2021
Tender Close	May 2021

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Council Award of Construction Tender

June, 2021

6.0 PROJECT BUDGET

The maximum budget for the Engineering Services of this project is \$200,000 (including rebatable HST). Proposals that exceed this budget may be disqualified.

7.0 PROPOSAL SUBMISSION REQUIREMENTS

The Consultant's proposal shall be no more than ten (10) pages, not including the cover letter, figures/tables, resumes and company credentials. The proposal shall include the following:

- a) A work program outlining project understanding, project implementation strategies and methodologies and issues affecting design;
- b) As project timelines are very critical to the City, a detailed project schedule with key milestones shall be outlined in Gantt Chart format;
- c) Quality assurance and control methods;
- d) A description of the Consultant's related experience. This will include a list of similar studies and relevant contact persons with whom successful completion may be discussed;
- e) A brief description of the project team and the relevant experience and qualifications of individuals including their intended participation and contributions to the project;
- f) The Consultant shall list all sub-Consultants to be included as part of the team and shall provide their intended scope of work for each sub-Consultant;
- g) A description of any municipal resources or efforts expected to be provided by the City;
- h) All proponents must declare whether they perceive any conflict of interest by undertaking the project in response to this Request for Proposal;

Note: The Consultant shall not include any component cost or person hour details with the Proposal document (Envelope 1). All cost information shall be contained in Envelope 2.

- i) The maximum total cost of the project. An estimated breakdown of costs including itemized costs of various phases or components of the assignment and a schedule of person hours for each component of the project; and
- j) All disbursement costs, which may include mileage, telephone charges, printing and reproduction costs, fax charges, courier services, computer services, etc.

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8.0 SUBMISSION LOGISTICS

Written Proposals must be delivered in a sealed envelope to the City by no later **than 2:00 p.m. local time on April 16, 2020** and **must** be addressed as follows:

ATTENTION: The Corporation of the City of Thorold
c/o Donna Delvecchio, City Clerk
3540 Schmon Parkway
Thorold, ON. L2V 4A7

RE: Thorold Community Arenas Ice Plant Replacement Design and Engineering Services

The City will respond to any inquiries submitted by the respondent through:

Curtis Dray.
Manager of Community Services
City of Thorold
Email: Curtis.Dray@thorold.ca

The Proposal shall be submitted in two (2) envelopes as identified below. All envelopes required for bid submission shall be supplied by the bidder and labelled as specified.

Envelope 1 shall contain:

- (i) Three (3) copies of the Proposal for Design and Engineering Services excluding Summary of Engineering Fees and Disbursements, but including any addenda. At least one proposal must be with original signatures and be marked as "ORIGINAL"; and
- (ii) Form of Offer, included as Appendix A
- (iii) Envelope 2

Envelope 2 shall contain:

A completed Summary of Design and Engineering Fees and Disbursements in the form included as **Appendix B**, as well as a time-task cost breakdown.

LATE OR MISDIRECTED PROPOSALS WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED TO THE RESPONDENT. SUBMISSIONS BY FACSIMILE WILL NOT BE ACCEPTED

All Proposals must be legibly signed by an authorized officer. In addition, officers are requested to attach to their Proposal, a covering letter detailing any features of their company that they feel should be taken into consideration when evaluating Proposals.

Following the expiry of the deadline date for submissions, all Proposals will be evaluated and the successful respondents, if any, will be notified following Council acceptance of the Proposal. Council acceptance is tentatively scheduled for May 2020

9.0 COMMITMENT TO NEGOTIATE

The successful respondent shall execute any documentation, drafted in accordance with the terms of the successful respondent's quotation and any subsequent negotiations, within thirty (30) days of the date of notification of the successful respondent's selection. Respondents not initially selected as the successful respondent hereby commit themselves, subject to notification by the City to execute documentation as aforesaid up to sixty (60) days following the date of submission of their quotation.

10.0 PREPARATION OF PROPOSALS

It is the intent of the City of Thorold to enter into an agreement for the completion of engineering services for the design. However, award of this contract is conditional on the Council of the City of Thorold approving funds for this project. All costs and expenses incurred by the respondent relating to its Proposal will be borne by the respondent. The City is not liable to pay for such costs and expenses, or to reimburse or to compensate the respondent in any manner whatsoever for such costs and expenses under any circumstances, including the rejection of any or all proposals or the cancellation of this RFP.

11.0 GENERAL TERMS AND CONDITIONS OF THE RFP

The City does not bind itself to accept any Proposal and may proceed as it, in its sole discretion, determines, following receipt of the Proposals. The City reserves the right to accept any Proposal in whole or in part or to discuss with any respondent different or additional terms to those envisaged in this RFP or in such respondent's quotation. If it becomes necessary to revise any part of this RFP or, if the respondents require additional data to interpret any of its provisions, the revisions or additional data will be provided to all respondents participating in the RFP process at that stage. If revisions or additional data are necessary after the closing date for Proposals, revisions or additional data will be provided only to those respondents who have submitted responses and met the basic requirements. Such respondents will then have the opportunity to modify their Proposal.

12.0 RIGHT TO ACCEPT OR REJECT SUBMISSIONS

The City has the right to:

- i. Accept or reject any or all of the Proposals;
- ii. If only one Proposal is received, elect to reject it; or
- iii. Elect not to proceed with the project as it so determines in its sole and absolute discretion.

13.0 NATURE OF REQUEST FOR PROPOSAL

This RFP does not constitute an offer of any nature or kind whatsoever by the City to the respondent.

14.0 **AMENDMENTS**

The City may modify, amend or revise any provision of this RFP or issue any addendum at any time. Any modification, amendment, revision or addenda will be in writing and will be provided to all respondents.

The City reserves the right to vary the scope of work prior to the award of the contract.

15.0 **CLARIFICATION OF PROPOSAL**

The City reserves the right to request the clarification of the contents of any Proposal. The City may choose to meet with some or all of the respondents to discuss aspects of their respective Proposal. The City may require respondents to submit supplementary documentation clarifying any matters contained in their Proposal and seek the respective respondent's acknowledgment of that interpretation. The supplementary documentation accepted by the City and written interpretations which have been acknowledged by the affected respondent shall be considered to form part of the Proposal of that respondent. After the time and date set for receipt of Proposals, only the supplementary documentation specifically requested by the City for the purpose of clarification shall be considered as part of a Proposal. The City is not obliged to seek clarification of any aspect of a Proposal.

16.0 **FINALIZING TERMS**

This RFP will not constitute a binding agreement, but will only form the basis for the finalization of the terms upon which the City and the successful respondent will enter into the contract documentation, and does not mean that the successful respondent's proposal is necessarily totally acceptable in the form submitted. After the selection of the successful respondent's proposal, the City reserves the right to negotiate with the successful respondent and, as part of that process, to negotiate changes, amendments or modifications to the successful respondent's proposal without offering the other respondents, the right to amend their proposals.

17.0 **PUBLICATION OF NAMES OF RESPONDENTS**

The City may, at any time, make public the names of all respondents. Additional information may be released in accordance with the **Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.F.31**, as amended. Any proprietary or confidential information contained in the quotation should be clearly identified.

18.0 **APPOINTMENT OF SUCCESSFUL CONSULTANT**

The City of Thorold Purchasing and Tendering Policy will be followed for appointment of this project. The successful respondent will be required to enter into an Engineering Agreement in the form of the standard agreement attached as **Appendix C**, containing an upset limit clause. The City of Thorold will only contract for Engineering services with one (1) primary Consultant. The respondent is required to stipulate the name of sub-consultants (if any) to be used, in the quotation submission.

19.0 INSURANCE REQUIREMENTS

i. Comprehensive General Liability and Automobile Insurance

The Consultant shall provide the City of Thorold with a certified copy of Third Party Liability in a form satisfactory to the City Solicitor as follows:

- Policy to be written on the comprehensive form including Contractual Liability and Complete Operations with an inclusive limit of not less than two million dollars (\$2,000,000.00) Bodily Injury and Property Damage with a deductible not greater than one thousand dollars (\$1,000.00). The Liability Insurance Policy shall not contain any exclusions of liability for damage, etc., to property, building or land arising from the removal or weakening of support of any property, building or land whether such support be natural or otherwise.
- Standard Automobile Policy on both owned and non-owned vehicles with inclusive limits of not less than two million dollars (\$2,000,000.00) Bodily Injury and Property Damage with a deductible not greater than one thousand dollars (\$1,000.00).
- A “Cross Liability” clause or endorsement.
- An endorsement certifying that the City of Thorold is included as an additional named insured.
- An endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty-(30) days prior written notice to the City.

ii. Professional Liability Insurance

The Insurance Coverage shall be in the minimum amount of two million dollars (\$2,000,000.00). The Consultant shall provide to the City of Thorold proof of Professional Liability Insurance carried by the Consultant.

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20.0 CONSULTANT PROPOSAL EVALUATION CRITERIA

An evaluation team consisting of Staff from the City's Engineering Division will conduct an evaluation of the proposals. Proposals will be evaluated in accordance with the following **three step criteria**:

Envelope	Consultant Proposal Evaluation Criteria	Weight	Points	Maximum Total
1	Understanding of Scope	10	____/10	100
1	Work Plan	35	____/10	350
1	Quality Assurance Plan	10	____/10	100
1	Corporate Experience/Qualifications	10	____/10	100
1	Direct Staff Experience/Goal	15	____/10	150
1	Schedule	5	____/10	50
2	Fees	15	____/10	150
	TOTAL POINTS			1000

Step 1 - Non-Cost Criteria

All proposals will be initially reviewed and assessed based on non-cost criteria. Should the initial proposal score, based solely on non-cost criteria, preclude a proposal from further consideration, the cost envelope shall be returned to the Consultant unopened.

All Consultant submissions with a non-cost criteria score within 150 of the highest non-cost score will have Envelope 2 opened.

Step 2 - Pricing Evaluation Criteria

For all proposal submissions that have passed Step 2 of the evaluation process, all prices will be compared against the low price. Any proposal with a price more than 175% of the low price will receive zero (0) points for pricing, but will remain in consideration for this project.

The Corporation of the City of Thorold
Request for Proposal for Thorold Community Arenas Ice Plant Replacement
Design and Engineering Services

Sample Project			
PROPONENT	Pricing	<u>Submitted Price</u> Low Price	Calculate Points for Pricing
A	\$20,400	100%	YES
B	\$28,750	141%	YES
D	\$38,350	188%	No, assign Zero (0) points

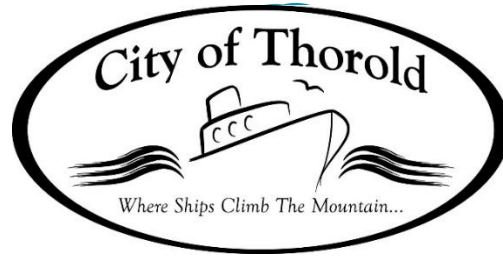
The total available points for pricing are as set out below:

Calculation to Determine Cost Points to be Awarded

$150 - \frac{(\text{Submitted Price} - \text{Lowest Price})}{\text{Low Price}} \times 150$
--

As illustrated below, points will be calculated following manner

Sample Project		
PROPONENT	Pricing	Points for Pricing
A	\$20,400	$150 - (\$20,400 - \$20,400) / \$20,400 \times 150 =$ 150
B	\$28,750	$150 - (\$28,750 - \$20,400) / \$20,400 \times 150 =$ 89
D	\$38,350	0



REQUEST FOR PROPOSAL FOR ENGINEERING SERVICES

**Thorold Community Arenas Ice Plant Replacement
Design and Engineering Services**

CONTRACT # 502CS0004

APPENDIX - A
FORM OF OFFER

APPENDIX A: FORM OF OFFER

Each Proposal must include this form completed and signed by the Proponent.

To: The Corporation of the City of Thorold

1. Proponent Information

The full legal name of the Proponent is:	
Any other relevant name under which the Proponent carries on business is:	
The jurisdiction under which the Proponent is governed is:	
The name, address, telephone and fax numbers, and email address of the contact person for the Proponent is:	
Whether the Proponent is an individual, a sole proprietorship, a corporation, a partnership, a joint venture, an incorporated consortium or a consortium that is a partnership or other legally recognized entity:	
<p>If the Proponent is an incorporated consortium or a consortium that is a partnership or other legally recognize entity, the Proponent must:</p> <ul style="list-style-type: none"> • Identify the single legal entity, which is solely liable and responsible to the Purchaser for the provision of the Deliverables Describe the consortium members. • Describe the contingency plan if a consortium member is no longer part of the consortium. 	

2. Offer

The Proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required under the RFP. By submitting its Proposal, the Proponent agrees and consents to the terms, conditions and provisions of the RFP, including the Form of Agreement, except as otherwise noted, and offers to provide the Services in accordance therewith at the Pricing set out in the Summary of Pricing.

3. Prices

The Proponent has submitted its Pricing in accordance with the instructions in the RFP and in the form set out in Appendix B – Summary of Fees & Disbursements.

4. Mandatory Forms

The Proponent encloses herewith as part of the Proposal, the mandatory forms as set out below:

Mandatory Forms	Include in Proposal as set out in Section 7.0	Yes, Enclosed
Appendix A – Form of Offer	Envelope 1	
Appendix B – Summary of Fees & Disbursements	Envelope 2	

5. Addenda and Questions/Answers

The Proponent is deemed to have read and accepted all addenda and question/answer documents issued by the City prior to the Deadline for Issuing Final Addenda.

The onus remains on Proponents to make any necessary amendments to its Proposals based on this information.

The Proponent is requested to confirm that it has received all addenda and question/answer documents, if any, by completing the applicable column in the below table:

Addenda and Question/Answers	Complete this column by inserting the number/quantity received:
The number of addenda received =	
The number of question/answer documents received =	

6. Proposal Irrevocable

The Proponent agrees that its Proposal shall be irrevocable for sixty (60) Days following the Proposal Submission Deadline.

7. Disclosure of Information

The Proponent hereby agrees that any information provided in this Proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of a court or tribunal. The Proponent hereby consents to the disclosure, on a confidential basis, of its Proposal to the Purchaser’s advisors retained for the purpose of evaluating or participating in the evaluation of this Proposal.

8. Proof of Insurance and Good Standing under the Workplace Safety and Insurance Act (Ontario)

By signing this Form of Offer, the Proponent agrees, if selected, that it has verified its capability to do so and will provide proof of insurance coverage and a Certificate of Good Standing under the Workplace Safety and Insurance Act (Ontario) as set out in the Form of Agreement.

9. Unfair Advantage and Conflict of Interest Statement

Prior to completing this Form of Offer, the Proponent is advised to review the definitions of Unfair Advantage and Conflict of Interest set out in Section 6 (h) of this RFP.

Conflict of Interest	Conflict of Interest (Yes or no)	If yes, please set out the details of the actual or potential Conflict of Interest below:
Is there an actual or potential Unfair Advantage or Conflict of Interest, relating to the preparation of its Proposal, or if the Proponent foresees an actual or potential Unfair Advantage or Conflict of Interest in performing the contractual obligations contemplated in the RFP?		

The Proponent agrees to provide any additional information, which may be requested by the RFP Coordinator, in the form prescribed by the RFP Coordinator. Where, in its sole discretion, the Purchaser concludes that an Unfair Advantage and/or Conflict of Interest arises, it may, in addition to any other remedy available to it at law or in equity, disqualify the Proponent's Proposal, or terminate any Agreement awarded to the Proponent under the RFP.

10. Execution of Agreement

If its Proposal is selected by the Purchaser, the Proponent agrees to finalize and execute the Agreement substantially in the form set out in the Form of Agreement in accordance with the terms of the RFP.

Signature of Witness

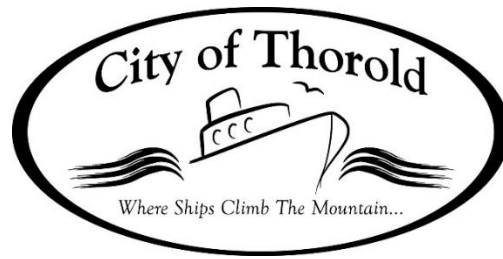
Signature of Proponent Representative

Name of Witness

Name and Title

Date: _____

I have authority to bind the Proponent



REQUEST FOR PROPOSAL FOR ENGINEERING SERVICES

**Thorold Community Arenas Ice Plant Replacement
Design and Engineering Services**

CONTRACT # 502CS0004

APPENDIX - B

**SUMMARY OF DESIGN AND ENGINEERING FEES AND
DISBURSEMENTS**

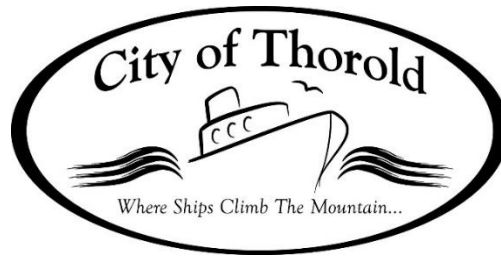
APPENDIX B: SUMMARY OF FEES & DISBURSEMENTS

The Summary of Fees and Disbursements to be submitted in Envelope '2'. The City will not accept the proposal if this condition is not met. The City Reserves the right to correct a proposal's fees and disbursements schedule containing mathematical errors. Each proponent is to attach a time-task fee breakdown to be included in envelope 2. The City reserves the right to undertake a portion of or all the project components. Use of the Contingency Allowance will be at the discretion of the City of Thorold only.

<u>Engineering / Design</u>	Fee	H.S.T.	Upset Limit (inc. 13% HST)
Preliminary and Detailed Design			
• Fees			
• Disbursements:			
• Other (Specify):			
Total (Upset Limit)			

<u>Tendering & Award</u>	Fee	H.S.T.	Upset Limit (inc. 13% HST)
• Fees			
• Disbursements:			
• Other (Specify):			
Total (Upset Limit)			

Combined Total (Upset Limit)			
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REQUEST FOR PROPOSAL FOR ENGINEERING SERVICES

**Thorold Community Arenas Ice Plant Replacement
Design and Engineering Services**

CONTRACT # 502CS0004

APPENDIX - C

STANDARD FORM OF ENGINEERING AGREEMENT

AGREEMENT FOR PROFESSIONAL DESIGN AND ENGINEERING
SERVICES

MEMORANDUM OF AGREEMENT Dated this _____ day of _____

-B E T W E E N-

The Corporation of the City of Thorold

Hereinafter called the "City"

THE PARTY OF THE FIRST PART

-AND-

Hereinafter called the "Engineer"

THE PARTY OF THE SECOND PART

WHEREAS the "City" intends to carry out Engineering/Consulting Services for:

**Thorold Community Arenas Ice Plant Replacement
Design and Engineering Services**

Hereinafter called the "Project" and has requested the Engineer to furnish professional services in connection therewith;

NOW THEREFORE WITNESSETH that in consideration of the covenants contained herein, the City and the Engineer mutually agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **AGREEMENT** – is this Prime Agreement for professional services including all Schedules and Appendices annexed hereto.
- 1.2 **CONSULTANT** – shall mean qualified and licenced professionals and specialists, other than the Engineer, engaged by the City directly.
- 1.3 **CONTRACTOR** – is the party contracting with the City for the provision of labour, materials and equipment for the execution and quality control of the Work.
- 1.4 **CONTRACT** – is the agreement between the City and the Contractor for the provision of labour, materials and equipment for the execution of the Work by the Contractor.
- 1.5 **CONTRACT DOCUMENTS** – shall comprise all documents relating to the Project, issued by or through the Engineer, including the plans, drawings, specifications and schedules, and all variations and modifications thereto approved by the Engineer.
- 1.6 **CONTRACT TIME** – shall refer to the projected date for Substantial Performance of the Contract agreed to between the City and the Contractor in the Contract.
- 1.7 **FIELD SERVICES** – shall mean applying such selective sampling procedures at the Project site as the Engineer, in his sole professional discretion, considers necessary to enable him to ascertain whether the Contractor is carrying out the Work in general conformity with the design concept for the Project.
- 1.8 **PROJECT** – shall refer to the Project described in the recital clauses to this Agreement.
- 1.9 **SERVICES** – shall mean the Engineer’s duties and responsibilities to the City as set forth in Article 4.
- 1.10 **SHOP DRAWINGS** – shall mean drawings, diagrams, illustrations, schedules, performance charts, technical brochures and other data which are to be provided by the Contractor or by others to illustrate details of a portion of the work.
- 1.11 **SITE** –shall include the actual work site and other locations where the checking of materials, equipment and workmanship is carried out.
- 1.12 **SUBSTANTIAL PERFORMANCE** –shall mean that the Work is ready to be used or is being used for the purpose intended, and is so certified by the Engineer.
- 1.13 **SUB-CONSULTANT** – shall mean any registered professional engineers, architects or other specialists engaged by the Engineer in connection with the Project.
- 1.14 **TOTAL PERFORMANCE** – shall mean that the entire Work has been performed to the requirements of the Contract Documents, and is so certified by the Engineer.
- 1.15 **WORK** – is the totality of all labour, materials and equipment used or incorporated into the Project by the Contractor pursuant to the Contract Documents.
- 1.16 **UPSET LIMIT** – shall mean the maximum amount of fees and disbursements that the Engineer may charge the City for work under this agreement unless otherwise agrees in writing.

ARTICLE 2. GENERAL CONDITIONS

2.1 Ownership of Documents

All plans, drawings, specifications, designs, construction data and documents prepared by the Engineer shall be and remain the property of the City.

The Engineer may with the consent of the City, which consent shall not be unreasonably withheld, publish alone or in conjunction with any other person any articles, photographs or other illustrations relating to the Works.

The Engineer does not assume any responsibility in the event the City uses or permits the use of such documents for other works not described in the Engineering Agreement without the Engineer's prior written consent.

2.2 Drawings

The City and the Engineer agree that any CADD documents prepared by either party shall be done on Auto Cadd and shall conform to the City's standard specifications. The electronic files submitted by the Engineer to the City are submitted for an acceptance period of 30 calendar days. Any defects the City discovers during this period will be reported to the Engineer and will be corrected as part of the Engineer's Basic Scope of Services.

The City shall not reuse or make or permit to be made any modification to the plans and specifications without the prior written authorization of the Engineer. The City agrees to waive any claim against the Engineer arising from any unauthorized reuse or modification of the plans and specifications by the City.

It is understood that sealed and signed mylars or vellum drawings govern over electronic files.

2.3 Confidential Data

The Engineer shall not divulge any confidential information communicated to or acquired by him or her disclosed by the City in the course of carrying out the services provided for herein. No such information shall be used by the Engineer on any other project without approval in writing by the City.

This requirement shall not prohibit the Engineer from acting to correct or report a situation which the Engineer may reasonably believe to endanger the safety or welfare of the public or City, provided that the Engineer notifies the City of his or her intent to so act or report.

2.4 Insurance

The Engineer shall supply to the City a summary of insurance coverage presently being maintained by the Engineer including but not limited to Professional Liability Insurance, Comprehensive General Liability and Automobile Insurance. Such summary shall include the name of the Insurance Company, type of insurance and amount of such coverage.

If the City requests that the amount of coverage of the Engineer's Insurance be increased or special insurance be obtained for this Project then the Engineer shall co-operate with the City to obtain such increased or special insurance coverage at the City's expense.

It is understood and agreed that the coverage provided by either of those policies named in the aforementioned summary or specially required will not be changed or amended in any way nor cancelled by the Engineer until sixty (60) days after written notice of such changes or cancellations has been delivered to the City.

The City also warrants that the Engineer shall be made an additional insured under the General Contractor's general liability insurance policy.

2.5 Dispute Resolution

This Agreement is based upon mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, both parties, with a commitment to honesty and integrity, agree to the following:

- That each will function within the laws and statutes that apply to its duties and responsibilities; that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the contract.
- Both parties to this Agreement shall attempt to resolve all claims, disputes and other matters in question arising out of or relating to this Agreement or breach thereof first through negotiations between the Engineer or representative and the City or representative by means of discussions built around mutual understanding and respect.
- Failing resolution by negotiations, all claims, disputes and other matters in question shall attempt to be resolved through mediation, under the guidance of a qualified mediator.
- Failing resolution by mediation, all claims, disputes and other matters in question shall be referred to arbitration.
- No person shall be appointed to act as mediator or arbitrator who is in any way interested, financially or otherwise, in the conduct of the work on the Project or in the business or other affairs of either the City or the Engineer.
- The award of the arbitrator shall be final and binding upon the parties.
- The provisions of the Ontario Arbitrations Act, shall apply.
- Construction agreement between the City and the Contractor shall follow same process of dispute resolution.

2.6 Successors and Assignment

This Agreement shall enure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors and assigns.

If a party to this Agreement who is an individual should desire to bring in a partner or partners or if a party which is a partnership should desire to bring in a new partner or partners to share the benefits and obligations of this Agreement, they may do so by properly notifying the other party in writing of such intended action.

If a party to this Agreement is a partnership, and a partner thereof either dies or retires then the remaining parties therein shall form a new successor partnership to share the benefits and obligations of the Agreement.

Except as aforesaid, neither party shall assign this Agreement without the proper consent in writing of the other.

2.7 Termination and Suspension

The City may at any time by notice in writing to the Engineer suspend or terminate the Services or any portion thereof at any stage of the undertaking. Upon receipt of such written notice, the Engineer shall perform no further Services other than those reasonably necessary to close out the Engineer's Services. In such event the Engineer shall be paid by the City for all services performed and for all disbursements incurred pursuant to this Agreement and remaining unpaid as of the effective date of such termination.

If the City is in default in the performance of any of the City's obligations set forth in this Agreement, then the Engineer may, by written notice to the City, require such default be corrected. If, within thirty (30) days of receipt of such notice, such default shall not have been corrected the Engineer may immediately terminate this Agreement. In such event the Engineer shall be paid by the City for all services performed and for all disbursements incurred pursuant to this Agreement and remaining unpaid as of the effective date of such termination.

2.8 Records and Audit

In order to provide data for the calculation of fees on a time basis, the Engineer and the sub-consultants shall keep a detailed record of the hours worked by and the salaries paid to the Engineer's staff employed on the Project.

The City may inspect and audit the books, payrolls, accounts and records of the Engineer and the sub-consultants during regular office hours with respect to any item, which the City is required to pay on a payroll multiplier bases as a result of this agreement.

The Engineer, when requested by the City, shall provide copies of receipts with respect to any disbursements for which the Engineer claims payment under this Agreement.

2.9 Indemnification

The Engineer shall indemnify and save harmless the City from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which the City, the employees, officers or agents of the City may suffer as a sole result of the negligence of the Engineer, the employees, officers or agents of the Engineer in the performance of this Agreement.

The City agrees to hold harmless, indemnify and defend the Engineer from and against any and all claims, losses, damages, liabilities and costs of defense arising out of or in any way connected with the presence, discharge, release or escape of hazardous materials or contaminants of any kind, excluding only such liability as may solely arise out of the negligence of the Engineer in the performance of consulting services to the City within this project.

2.10 Contracting for Construction

The Engineer or any person, firm or corporation associated with or subsidiary to the Engineer shall not tender for any or all of the execution of the Project or have an interest either directly or indirectly in the construction of the Project without the prior written consent of the City.

2.11 Approval by Other Authorities

Unless otherwise provided in this Agreement, where the work of the Engineer is subject to the approval or review of an authority, department or agency other than the City, the Engineer shall assist the City in applying for those approvals typically required by law for projects similar to the one for which the Engineer's services are being engaged. This assistance relates to completing and submitting forms as to the results of certain work included in the scope of services. If required by the Approval Agency(ies), the Engineer may with the approval of the City in writing also provide additional services as needed, these to include, but not limited to, conducting special tests, performance of special research studies, preparation of special documentation, development and delivery of testimony.

The City and the Engineer agree to discuss the scope of these additional services and the fees and expenses relating thereto before the Engineer performs them on the City's behalf.

2.12 Changes and Alterations and Additional Services

After giving notice to the Engineer, the City may in writing at any time after the execution of the Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of the Agreement and if such action by the City necessitates additional staff or services, the Engineer shall be paid in accordance with Article 5 for such additional staff employed directly thereon, together with such expenses and disbursements as allowed under Article 5 or as negotiated between parties whichever is lesser amount. In the case of a reduction in the requirement for services any reduction in the Engineer's fee will be subject to negotiation. No such change shall require the execution of a formal amendment to this Agreement.

If it shall become necessary for the Engineer to make any changes in any designs, drawings, plans or specifications for any part of the Project for reasons over which he has no control, or if the Engineer is put to any extra work, cost or expense by reason of any act or matter over which he has no control, the City shall pay to the Engineer a fee for such changes or extra work calculated on a time basis in accordance with Article 5, provided that prior to the commencement of such changes or extra work, the Engineer shall notify the City in writing of his intentions to make such changes or to carry out such extra work and that the Engineer shall keep separate cost records in respect to such changes or extra work. The extra work or charges will not be affected by the Engineer unless the City first agrees in writing to the proposed work and a fee is negotiated to the satisfaction of the parties.

2.13 Plans, Specifications, Designs & Cost Estimates

Any and all plans, specifications, drawings and designs furnished by the Engineer will be prepared on the assumption that all information supplied by the City or on behalf of the City by any person or persons other than the Engineer is correct and the Engineer shall not be liable for any loss or damage arising from any inaccuracy in such information. The City

shall immediately notify the Engineer of any discrepancies or inaccuracies in such information as they become apparent. The Engineer shall be entitled to make any necessary change or changes in his plans, specifications, drawings or designs at the City's expense if any such information should be erroneous or inaccurate.

Construction cost estimates provided by the Engineer are opinions of probable construction costs based on the judgement of design professionals and are provided for the City's general guidance. Cost estimates are contingent upon factors over which the Engineer has no control. Exact costs will be determined only when tenders have been received for the project.

2.14 Shop Drawing Review

The City agrees that the Engineer shall review shop-drawing submissions solely for the conformance with the Engineer's design intent and conformance with information given in the construction documents. The Engineer shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences and operations of construction, safety precautions and programmes incidental thereto, all of which are the contractor's responsibility.

2.15 Observation of the Work

The Engineer will provide construction administration and field review services sufficient to control the work and the project and ensure construction is in compliance with the approved plans and specifications as detailed in Article 4.0.

2.16 Job Site Safety

The Engineer is responsible solely for his or her own and his or her own employees' activities on the job site, but this shall not be construed to relieve the City or any construction contractors from their responsibility for maintaining a safe job site. Neither the professional activities of the Engineer nor the presence of the Engineer or his or her employees and subcontractors, shall be construed to imply the Engineer has any responsibility for methods of work performance, superintendence, sequencing of construction, or safety in, on or about the job site. The City acknowledges that the contractor shall be deemed the constructor.

The Engineer shall be familiar with relevant safety policies regulations and procedures. In the event of non-compliance the Engineer shall advise the Contractor or Sub-Consultant and immediately notify the City and the appropriate governing authority. Should the Engineer report what he deemed to be non-compliance to the appropriate authorities in error the City would save harmless the Engineer if in fact the Ministry of Labour overruled the Engineer and a claim for delay was filed from the Contractor.

2.17 Emergencies During Construction

In the event of any emergencies during construction which, in the opinion of the Engineer, requires immediate action in the City's interests, the Engineer shall have the authority to issue such orders and to take such steps on behalf, and at the expense of the City as he shall deem necessary or expedient.

2.18 Administration and Co-ordination

The Engineer's administration and co-ordination functions provided herein shall pertain only to the extent that the services contemplated in Article 4 have been rendered on the project.

Authority for general co-ordination of the Project shall reside in the Engineer only to the extent provided for in this Agreement.

All notices, instructions, requests, claims or other communications by the Contractor, by the Consultants or by the City to one another shall be made by or through the Engineer.

The Engineer shall make decisions on all claims of the City and of the Contractor, and on all matters relating to the interpretation of the Contract Documents, all in accordance with the requirements of the Contract Documents.

No acceptance or approval by the Engineer of the Work or of the services of the Contractor or the Consultants, whether expressed or implied, shall relieve the Contractor or the Consultants from their responsibilities to the City for the proper performance of such Work or services, and further, the Engineer shall not be responsible to the City or the Contractor or the Consultants for the means, methods, techniques, sequences, procedures and use of equipment, of any nature whatsoever, whether approved by the Engineer or not, which are employed by the Contractor or by the Consultants in executing or designing any phases of the Project, or for placing into operation any plan or equipment, or for safety precautions and programs incidental thereto.

2.19 Contract Time Estimates

The parties expressly acknowledge and agree that the Contract Time estimates provided by the Engineer to the City under this Agreement are subject to change and are contingent upon factors over which the Engineer has no control. The Engineer does not guarantee the accuracy of such estimates. The Engineer will endeavour to adhere to said schedules in a "timely manner" and will provide notice to the City as soon as such factors arise.

2.20 Certifications by the Engineer

The Engineer's certification functions provided for shall pertain only to the extent that the services contemplated in Article 4 have been rendered on the project.

The Engineer shall issue certifications as set forth in Article 4 only where Field Services have been performed by the Engineer as defined in Article 1.7, have been performed by the Engineer, or should have been performed by the Engineer in the normal course of his duties hereunder, as set for the in the proposal for Engineering Services prepared by the Engineer dated _____ and attached hereto.

2.21 Building Codes and By-Laws

The Engineer shall, reasonably interpret building codes and by-laws as they apply to the Project, but it is expressly acknowledged and agreed by the City that as the Project progresses, the interpretation of building codes and by-laws by any public authority may differ from the interpretation of the Engineer, through no fault of the Engineer, and any extra cost necessary to conform to the interpretation placed upon the codes and by-laws or to conform to changes or differences in interpretation by such authorities during or after execution of the Work will be paid by the City in the event that the Engineer has received a prior approval or authorization from such authorities in respect of such interpretations.

2.22 Notices

All notices required by this Agreement to be given by either party shall be deemed to be properly given and received if made in writing to the other party by certified mail or facsimile, addressed to the regular business address of such other party.

2.23 Entire Agreement

This Agreement constitutes the sole and entire agreement between the City and the Engineer relating to the Project, and no other terms, conditions or warranties, whether expressed or implied, shall form a part hereof.

2.24 Hazardous Materials

It is acknowledged by both parties that the Engineer's scope of services does not include any services related to hazardous or toxic materials. In the event the Engineer or any other party encounters hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of the Engineer's services, the Engineer may, at his or her option and without liability for consequential or any other damages, suspend performance of services on the project until the City retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the hazardous or toxic materials, and warrant that the job site is in full compliance with applicable laws and regulations.

The City agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Engineer, his or her officers, partners, employees, agents and consultants from and against any and all claims, suits, demands, liabilities, losses, or costs, including reasonable attorneys' fees and defense costs, resulting or accruing to any and all persons, firms and any other legal entity, caused by, arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any hazardous or toxic substances, products or materials that exist on, about or adjacent to the job site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, unless the breach of contract or warranty, tort, strict liability or otherwise be as a result of the actions or caused by fault of the Engineer, his or her officers, partners, employees, agents or consultants.

2.25 Voluntary Partnering

The City will encourage participation in a formalized Partnering process that evolves the City, the Engineer and the Contractor. This partnering relationship will be structured to draw on the strengths of each organization to identify and achieve common goals. The objectives are effective and efficient contract performance and completion of the Project within budget, on schedule, in accordance with drawings and specifications and without litigation.

Participation in partnering will be totally voluntary and all participants will have equal status. Any costs associated with partnering will be agreed to in advance by all parties.

ARTICLE 3. RESPONSIBILITIES OF THE CITY

The City shall:

- 3.1 Make available to the Engineer all relevant information required by the Engineer, and shall instruct the Engineer fully as to the City's requirements including design objectives, constraints and criteria, special equipment and systems, site requirements and construction budget. Unless otherwise advised, the Engineer shall be entitled to rely upon the accuracy and completeness of all such information and the data furnished through the City or the City's Consultants, whether such Consultants are engaged at the request of the Engineer or not.
- 3.2 When so required by the Engineer, engage Consultants directly to perform services necessary to enable the Engineer to fully carry out his or her duties, such services to include but not be limited to a legal survey of the site, site services data, geotechnical reports and appropriate testing. The Consultant so engaged shall carry Professional Liability Insurance in a minimum amount of \$500,000 per occurrence and be satisfactory to the Engineer.
- 3.3 Give the Engineer authority to act as his or her agent in all matters falling within the scope of the Engineer's services.
- 3.4 Promptly review all documentation submitted by the Engineer, and inform the Engineer of his or her decisions in time for the orderly progress of the Engineer's services and of the work.
- 3.5 Obtain all required consents, approvals and licences and permits from authorities having jurisdiction.
- 3.6 Arrange and make provision for the Engineer's entry and access to public and private property and Project site in the performance of his or her duties.
- 3.7 Arrange and pay for tender advertising, application fees, and any necessary legal, financial or insurance counselling services required for the Project.
- 3.8 Designate in writing a representative to have authority to transmit instructions to and receive information from the Engineer and, in the event the said representative is changed, advise the Engineer immediately of such change.
- 3.9 Immediately notify the Engineer whenever the City or the City's representative become aware of a defect or deficiency in the work or the Contract Documents.
- 3.10 Use its best efforts to include the Engineer as an additional insured under the General Contractor's Public Liability insurance policy.
- 3.11 Not enter into Contracts in connection with the Project, which describe duties and responsibilities of the Engineer which are inconsistent with the duties and responsibilities of the Engineer provided for in this Agreement, without obtaining the Engineer's prior written agreement thereto.
- 3.12 Co-operate fully and expeditiously with the Engineer in securing the required approvals and in adhering to the proposed schedule.
- 3.13 Contract with only those Contractors who have demonstrated, on similar projects, the knowledge, skill, experience and business expertise to construct the works pursuant to the Engineer's designs and specifications.

ARTICLE 4. ENGINEERING SERVICES PROVIDED

4.1 General

The Engineer shall render Services to the City "in a timely manner" under this Agreement with that degree of care, skill and diligence normally provided in the performance of Services in respect of Projects of a similar nature to that contemplated by this Agreement at the time and place that such services are rendered.

4.2 The Engineer Shall Perform the Following Services in Connection with the Project:

Provide consulting services for, perform tasks associated with, and provide deliverables for the

Arena Ice Plant Replacement Design and Engineering Services, RFP 502CS0004 as set out in the Request for Engineering Services and the Proposal for Engineering Services dated _____ submitted by the Engineer, attached hereto as Schedule 'A', respectively, and forming part of this agreement.

ARTICLE 5. FEES AND DISBURSEMENTS

5.1 Basis of Payment

5.1.1 Fees

5.1.1.1 The City shall pay the Engineer a fee to the upset limit, as shown in the Summary of Engineering Fees and Disbursements, appended as Schedule 'A', for the services described in Article 4.

5.1.1.2 All time expended on the assignment, whether in the Engineer's office, at the City's premises, or elsewhere, and including travel time, shall be chargeable. This also included, but is not limited to, stenographic and clerical staff engaged in the preparation of documents such as reports, specifications and correspondence directly relating to the Project. All time expended shall be subject to the upset limit.

5.1.2 Fee for Additional and Special Services

The fee for Additional and Special Services provided by the Engineer, if any, shall be calculated on a time basis. Additional and Special Services, if any, and the corresponding fees payable, shall be clearly itemized under Schedule 'B' attached to this Agreement (if applicable).

5.1.3 Expenses and Disbursements

5.1.3.1 The Engineer shall be reimbursed for all expenses properly incurred by him in connection with the Project including, but not limited to, automobile mileage, reasonable travelling and living expenses, long distance telephone and facsimile charges, teletype and telegraph charges, printing and reproductions, progress photography, advertising for tenders, special delivery, courier and express charges, overtime premium payments and the cost of maintaining site offices,

supplies, equipment and computer usage, to the upset limit set out in Schedule 'A'.

- 5.1.3.2 Computer services, except where a computer is used for design under the percentage fee scale or for the Engineer's normal office administration, shall be considered a reimbursable expense, to the upset limit set out in Schedule 'A'.
- 5.1.3.3 The Engineer shall also be reimbursed at cost plus a charge of 10% of such cost as an administrative charge for approved special consultations such as sub-surface investigations, legal surveys and chemical and physical tests and sub-consultants, to the upset limit set out in Schedule 'A'.

5.2 Terms of Payment of Fees

- 5.2.1 The Engineer will forward an invoice for his services monthly. Payment of fees and disbursements in Canadian dollars is due within 30 calendar days upon receipt of invoice by the City.

In witness whereof the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

That the Mayor and Clerk are authorized to execute any documents required on behalf of the City and affix the corporate seal of the City and the Mayor and Clerk, and such other persons as the action directs, are authorized and directed to take the necessary steps to implement the action.

SIGNED, SEALED AND DELIVERED
in the presence of:

OWNER

The Corporation of the City of Thorold

Name

Signature

Terry Ugolini, Mayor

Name and Title

Date

Signature

Donna Delvecchio, City Clerk

Name and Title

Date

CONTRACTOR

Name of Contractor

Signature

Seal

Name and Title

Date

Signature

Name and Title

Date