



City of Saint John

Request for Proposal

2024-091004P

**"ENGINEERING SERVICES:
NORTH END COMBINED SEWER SEPARATION STRATEGY"
SAINT JOHN, NB**

Sealed proposals, hand delivered or couriered, addressed to Chris Roberts, SCMP, CPPB, Procurement Manager, 1st Floor, Municipal Operations Complex, 175 Rothesay Avenue, Saint John, NB, E2J 2B4, and marked on the envelope:

**"PROPOSAL 2024-091004P - ENGINEERING SERVICES:
NORTH END COMBINED SEWER SEPARATION STRATEGY"**

will be received until **4:00:00 pm Local Time, Thursday, March 7, 2024**, for Engineering Services for the above noted project, as per the Request for Proposal.

Proposals will be opened in the office of the Purchasing Agent, 1st Floor, Municipal Operations Complex, 175 Rothesay Avenue, immediately following the proposal submission deadline.

The lowest cost or any proposal not necessarily accepted.

Upon the consultant's request, a copy of referenced attachments will be provided by the City of Saint John via an FTP site.

Chris Roberts, SCMP, CPPB
Procurement Manager
Supply Chain Management

TABLE OF CONTENTS

1. General.....	1
2. Project Description	1
3. Professional Services Required	3
4. Method of Payment	14
5. Termination of Contract.....	15
6. Content of Proposal	15
7. Evaluation Criteria.....	17
8. Insurance Requirements	18
9. Formality Clause.....	18
10. Standard Terms and Conditions	19
11. Submittals	23
12. Enquiries	23
13. Attachments.....	24
14. Other Relevant Documents	24
15. Submission of Proposals	24

SCOPE OF WORK
FOR
PROPOSAL 2024-091004P

**Engineering Services: North End
Combined Sewer Separation Strategy**

1. GENERAL:

The City has prepared this document for Consulting Engineering firms wishing to provide their services to the City of Saint John. This request for proposals is to be used as a guide, in combination with good engineering judgment and standard engineering practices and is not intended to be a complete procedural document. It reflects basic standards the Consultant shall adhere to when preparing a proposal or carrying out work for the City.

All engineers working on this project for the City must be a current member, licensee or holder of a certificate of authorization with APEGNB. All Engineering companies working on this project for the City must have a current certificate of authorization with APEGNB.

The Consultant shall in all matters act as a faithful advisor to the City. The Consultant shall keep the City informed on all matters related to design, procurement and construction and all other important aspects forming part of the scope of work.

The Consultant must aggressively and proactively manage the project in the best interest of the City of Saint John. The Consultant will oversee and manage the entire project on behalf of Engineering Services. The proposal shall clearly explain the anticipated structure of project management during each phase.

The Consultant shall be aware of and follow any orders, policies, directives, standards and guidelines issued by any governmental authority, governing all or any part of the work under this RFP.

2. PROJECT DESCRIPTION:

The overall project involves the study of all the existing sewer pipe networks in the north end (areas of study as shown in Figure 1; this drawing has also been included as an attachment) and the development of a long-term strategy for separation of these sewers. The Consultant will be required to review the existing storm sewer outfalls in the study area and make recommendations on either the renewal or elimination of existing storm sewer outfalls and/or the installation of new storm

sewer outfalls that are necessary to achieve the stated goal of combined sewer separation within the project area. This review shall build upon previously completed studies in the north end, which are attached to this RFP document.

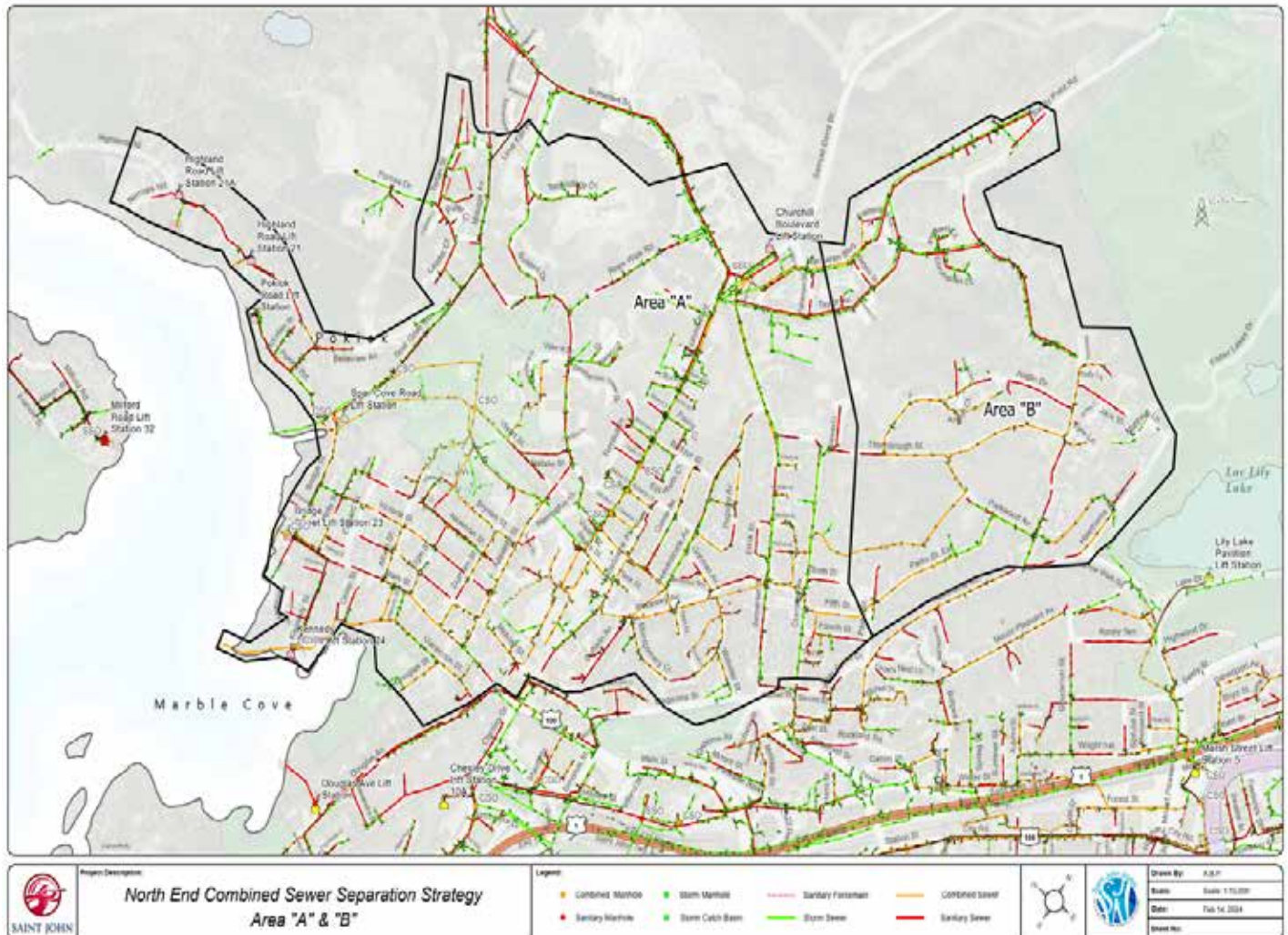


Figure 1: Approximate North End Combined Sewer Separation Study Areas ("A" and "B")

When preparing the separation strategy, the successful Consultant shall review existing sewers to ensure existing separated sewers are of sufficient capacity.

The City of Saint John will use the Consultant's recommendations for separation and necessary upsizing of sewers as a framework for future Capital Program planning/budgeting therefore, the recommendations must be actionable items. Also, the Consultant shall re-calibrate the City's existing sewer model (using Bentley SewerGEMS) based on the findings from the study as well as determine the capacity gained in the sanitary system upon the completion of each remedial measure. The Consultant shall be responsible for any necessary software licensing to run the model.

The Consultant shall provide recommendations for each property within the investigation zone (s) on whether storm laterals should be installed to the property line. Consideration should be given to the depth of existing storm sewers as well as rising waters due to spring freshet and climate change.

The Scope of Work for this project shall consider the two (2) areas identified within the north end as shown in Figure 1. Area "A" and Part "B" are to be submitted as two (2) separate projects, with separate pricing. Although the City may decide to only move forward with one (1) area; for the purpose of this RFP, the submission and financial proposal shall be provided for each of the two (2) areas. The City makes no guarantee that both locations, Area "A" and "B" projects will be awarded.

Project coordination meetings may also be required with the City of Saint John planning team as it relates to the development of strategies for the North End Secondary Plan.

3. PROFESSIONAL SERVICES REQUIRED:

The Consultant will oversee and manage the entire project. The proposal shall indicate the technical services provided for each of the following components of the two (2) project locations identified above.

COMBINED SEWER SEPARATION

The Consultant shall undertake a review of the existing combined sewers within the project area(s). As part of the review, the Consultant shall:

- Break down the study area into individual storm and sanitary sewer catchment areas for analysis based on a review of the sub-catchment delineation currently completed in the existing model.
- Build upon the preliminary information provided as background information only, (see attachments) the Consultant shall identify all combined sewers that need separation.
- Develop a comprehensive actionable plan and sequence for future separation projects. This work shall be broken down into actionable project sizes. Sequencing shall consider best value for money for separation efforts. Sequencing shall be based on an objective rating scheme, not just pipe condition alone. The Consultant's report shall be a stand-alone document. The Consultant shall build upon the Central Peninsula Separation Strategies rating scheme, and not attempt to start over with a new scheme.
- Complete preliminary sizing of the proposed separated sanitary and storm sewers, including any upsizing of existing sewers, where required. Existing pipe sizes need to be checked to confirm capacity.
- Review the existing sanitary and storm sewer infrastructure and identify any areas where the capacity of existing sewers is a concern. The Consultant

shall identify these areas and provide recommended upgrading sequence to address the concerns.

- Prepare preliminary cost estimates for each sewer separation project within the study area(s), any additional sewer separation projects identified as part of this project, and for other required upgrades to currently separated sewers to address potential issues are to be provided. Estimates to show breakdown of proposed engineering, construction, contingency, and land acquisition (if required) as separate costs.

The City's existing sewer model for the study area will be provided to the Consultant for use on this project. The Consultant will need to sign documentation ensuring the modelling software will be used on City capital/operations projects only.

The review of the capacities of the new/existing storm sewers shall consider the effects of climate change.

SEWER OUTFALLS

For each individual storm sewer catchment areas within each project area, the Consultant shall:

- Conduct a review of the existing sewer outfalls, including a review of their current capacities, as well as review of the capacities following the proposed sewer separation.
- Determine if any existing outfalls need to be renewed or abandoned and if new outfalls need to be constructed. The Consultant shall determine the required capacity at each outfall to support future sewer separation projects.
- Preliminary review of proposed sewer outfall locations to be completed to confirm that installation of the proposed outfall is technically feasible. The review shall include a site visit to confirm conditions as well as a review to determine the required capacity at each outfall location to support future sewer separation projects. Concept plan drawings to be provided for each outfall installation and renewal.
- If backflow prevention is recommended, the Consultant shall review each outfall location and provide preliminary location/type of backflow preventer along with preliminary cost estimates for each location.
- Provide scaled drawings showing preliminary alignments for proposed sewer outfalls. Preliminary drawings shall be for proposed projects and sequencing with alignments and profiles being completed as projects are designed.
- Preliminary cost estimates for the renewal of existing outfalls or the construction of new outfalls to be provided, including any recommended backflow prevention. Estimates to show breakdown of proposed

engineering, construction, contingency, and land acquisition (if required) as separate costs.

The Consultant must also consider the effects of climate change, sea level rise and spring freshet.

COMBINED SEWER OVERFLOW CHAMBER REVIEW

The Consultant shall review the existing inventory of combined sewer overflow (CSO) chambers and:

- Make recommendations on the timing for when these chambers can be abandoned as sewer separation proceeds.
- Shall develop an actionable plan for abandonment of each CSO as sewer separation proceeds.
- Shall also look at any impacts the removal of the CSO's will have on the overall system and provide recommendations to mitigate these impacts (i.e. new/reconfigured overflow piping for wastewater pumping stations).

As indicated above, the stated goal is to eliminate existing CSO chambers. As sewer separation proceeds, it is anticipated that temporary measures will be required to prevent surcharging of separated sanitary sewers from upstream combined sewers. Therefore, the Consultant shall also look at any requirements for short-term or temporary CSO's that may be necessary as sewer separation proceeds. Consultation with NBD OE shall be included regarding the potential use of temporary or short-term CSO's.

STORM SEWER LATERALS

The Consultant shall consider but not be limited to the following:

- How the future separation of roof leaders and footing drains can be achieved.
- Providing clear direction on where new storm sewer laterals should be included in future combined sewer separation projects for each recommended capital project the Consultant shall recommend if storm laterals should be installed based on considering the unique details of each capital project. The City does not want an overarching statement but rather direction specific to each capital project proposed.
- The Consultant's recommendations should consider costs to the City, value for money, and reasonableness that private property owners will separate for old North End style properties (i.e. shared walls, internal plumbing for roof drains).

Consultants should consider that it is very expensive for the City to install storm sewer laterals to all properties. For streets that the City has already done this, the

City has seen very few connections made to the laterals by private property owners. It has also been difficult to install storm laterals for all projects as many existing separated storm sewers were installed shallow in the past therefore new separated storm sewers can only be installed so deep as they need to flow into existing shallow storm sewers.

FLOW MONITORING PROGRAM

The Consultant shall include additional flow monitoring within the North End (locations "Area A" and Area "B"). This additional flow monitoring shall be used to further calibrate the City's sewer model in support of the sewer separation project.

Flow monitors for calibration of the sewer model have previously been installed within the study area. Please refer to the attached *Millidgeville Sanitary Sewer and Storm Water Model Development Final Report*.

Regardless of the location(s) chosen (Part "A" and/or Part "B"), the Consultant shall allow for the installation of twelve (12) flow monitoring sites. If the Consultant believes more (or less) flow meters are required, that should be detailed in the proposal however, to ensure a fair bid process, all Consultants shall provide for a total of twelve (12) flow meters in their submission. If it is determined through the proposal submission process that more (or less) flow meters will be required based on the Consultant's plan, prior to award of the contract, adjustments may be made based on the unit price provided for a reduction or addition of flow meters. The proposal shall allow for the flow meters to remain in place for eight (8) weeks. Additional flow meters and additional weeks for installed flow meters included in the proposal will be paid for as per the financial proposal.

The Consultant will be required to undertake, but not be limited to, the following tasks, to fully achieve the City of Saint John flow monitoring objectives:

- Study and investigate project area(s) (sewer shed);
- Review existing information (mapping, pump run times, wet well level trending, maintenance reports, etc.);
- Determine appropriate locations for flow monitoring to occur;
- Provide flow monitoring locations to the City so the City can get the sewer lines around the proposed locations flushed prior to installation, using either City forces or the unit rate for sewer flushing provided by the Consultant;
- Provide, install and calibrate flow monitoring devices;
- Provide, install and calibrate rain gauge device;
- Maintain correct operation of flow monitoring and rain gauge devices;
- Retrieve data on a regular basis (including preliminary interpretation of data as general QA/QC);

- Remove flow monitoring and rain gauge devices;
- Analyze data;
- Report;
- Calibrate existing sanitary sewer and storm water model based on flow meter data; and
- Liaise with City Staff through completion of study.

The Consultant shall indicate in their proposal the number of flow monitoring sites required and provide the rationale for selecting the sites. The proposal shall include twelve (12) flow meters and one (1) rain gauge as a minimum.

Method of Work

The Consultant shall furnish all materials, equipment, labour, traffic control, supervision, and perform all work necessary for flow monitoring of the sewer lines as required.

Portable Flow Monitoring Services:

- The Consultant shall install, calibrate and remove flow monitoring units at various locations within the identified study area.
- The Consultant shall install, calibrate and remove a rain gauge unit within the identified study area.
- The Consultant shall be able to provide at all times adequate flow monitoring units capable of measuring either depth and velocity or discharge directly (use of primary devices such as weir plates or devices that result in substantial reductions in flow capacity in the system is not acceptable).
- The Consultant shall ensure that the flow monitoring units will not cause operational concerns such as, but not limited to, flow interference or obstruction, reduced hydraulic capacity, etc.
- The Consultant shall provide site servicing and maintenance on an as-required basis. Maintenance twice every week is a minimum for this project.
- At the end of the flow monitoring timeline and when an acceptable amount of data has been obtained, the Consultant shall remove all equipment from the site and confirm that it has been done to City of Saint John satisfaction.

Staff Qualifications

Interested Consultants shall include with their submissions the qualifications of all staff involved in the performance of the flow meter installations and data analysis.

These qualifications should indicate that the key personnel have related experience, training and required inoculations for the performance of these tasks.

Coordination

Project coordination meetings with City of Saint John staff and the Consultant's representatives are to be held on an as-required basis. The Consultant's representative(s) at all coordination meetings shall be experienced individuals familiar with all aspects of the installation and operation of the flow monitoring units and up-to-date on all field related activities.

Installation

The Consultant shall be fully responsible for installing the flow monitoring units at each location to accurately measure the flows. The Consultant team shall demonstrate qualifications, proven experience and inoculations for personnel required to work around raw sewage (Hepatitis A and B, and tetanus as a minimum).

- The Consultant shall provide all necessary equipment and appropriately trained personnel to install each flow monitoring unit. Equipment shall include, but not be limited to:
 - vehicular and safety equipment required for field operations;
 - continuous gas and oxygen detectors;
 - voice activated two-way communications equipment;
 - confined space ventilation equipment;
 - rescue breathing equipment (positive pressure);
 - signage and traffic control; and
 - mobile generator (for on-site electrical supply).
- All personnel shall be familiar with NB Occupational Health and Safety Requirements and have WHMIS training.
- The Consultant shall install flow meters in optimum locations to obtain accurate and representative results and retrieve data that will comply with objectives. If the Consultant concludes that a site is unsuitable (because of manhole benching, hydraulic conditions, etc.) an alternative site shall be sought by the Consultant to achieve the original objective (alternate site to be approved by the City). Depth and velocity readings are to be confirmed during the installation using alternate measurement devices (tape measure, electromagnetic flux velocity meter, etc.) to ensure equipment accuracy.
- Any equipment mounted in the manhole shall be securely fastened. The mounting apparatus shall include a release mechanism to allow for equipment removal for servicing and maintenance.

Site Conditions

The Consultant shall perform their own assessment of all matters related to the structural integrity of manholes and sewers, and the flow conditions and air quality at the flow monitoring sites and shall be responsible for worker safety during performance of duties.

Equipment Specifications

- The Consultant shall guarantee that all flow monitoring instruments are adequate to satisfactorily achieve the objectives in monitoring a specific site. The Consultant shall guarantee that data is both representative and accurate.
- Equipment must measure and store, as a minimum, the instantaneous flow and the open conduit depth (even during surcharge conditions). The flow monitoring equipment must have the following minimum requirements:
 - Velocity (if applicable) measurement range of -1.0 to 6.0 m/s (minimum), with a measurement accuracy of 2% or less and a resolution of 0.005 m/s or less,
 - Depth measurement range (with accurate velocity measurement) of 0.05 to 3.0 m (minimum), with a measurement accuracy of +/- 0.008 m or less,
 - Flow measurement resolution should be equal to or less than 0.01 L/s,
 - Flow meters should be capable of a measurement and storage frequency of 5 minutes or less,
 - Low profile or non-contacting flow measurement device so as to reduce the likelihood of initiating a flow obstruction or the accumulation of debris.
- A data recovery of 80% or better at each flow monitoring site must be guaranteed on the entire monitoring period. If 80% data recovery is not realized, the proponent will extend the flow monitoring program at no additional cost until this benchmark is met.
- The Consultant will inspect flow meter installations twice weekly (minimum) to ensure proper meter performance (check for accumulation of solids, check battery capacity and confirm the depth and velocity readings, etc.). All safety procedures (confined space entry, etc.) that are required for meter installation will be adhered to during the inspections by the Consultant.
- The Consultant shall review the downloaded data weekly and not wait until the end of the 8-week period in order to allow changes to be made to flow meters if required.

Final Reporting/Deliverables

- Supply a Standard Form for each site, including, but not limited to:
 - Calibration measurements.
 - Summary of verification work performed at each flow monitoring location. This summary shall include the results of all verification readings taken for both depth and velocity. Comparison readings with the instrument measurements shall be presented and the corresponding measurement error.
 - Location and characteristics of each site.
- As the objectives may vary based on the monitoring sites, the Consultant shall be able to provide the following information, in order to achieve the goals for each monitoring site:

Raw Data Analysis

- QA/QC of the flow data including a thorough review of other data (depth, velocity, etc.) on a weekly basis at minimum.
- Reconstruction of lost data if possible (using data from previous period when meter was working properly)
- Analysis of the system surcharge dynamics (using depth and velocity data if available, utilization of a computer model is preferred for managing data)

Report

- Instantaneous flow data (table format)
- Daily average flow data (table format)
- Precipitation overlays from rain gauge and nearby climate stations
- Graphs of data (instantaneous flow and daily average flow) for the entire monitoring period with climatic overlay

Data Analysis

- Comparison of the weather and groundwater conditions to "normal" conditions
- Comparisons of the flow data to precipitation events (rainfall and/or snowmelt) and, if applicable, groundwater levels and/or nearby surface water level fluctuations
- Comparison of measured flows to estimates of theoretical population flows at meter locations (using NBDELG guidelines)
- Estimates of infiltration and inflow
- Final summary report shall be prepared and presented to the City of Saint John.
- Technical specifications on flow monitoring devices used shall be provided.

- All data prepared during program shall be provided in both hard copy and electronic format.

CALIBRATION OF SEWER SYSTEM MODEL

The current model (to be provided to the successful Proponent) was produced using Bentley SewerGEMS. The Consultant shall calibrate and update the model with the information collected in this study.

The Consultant shall also confirm that the sewer model has been updated for any recently noted approved developments within the study area. These sites include but are not limited to:

Approved Developments (At Time of RFP)

Location	Development
50 Technology Drive	50 units
80 Technology Drive	475 units
84 Ropewalk Road	New K-5 school – approx. capacity of 522 students plus an early learning centre (i.e. Day Care) with 116 spaces
71 Visart Street	4 townhouses
50 Newport Crescent	109 units and Townhouses

Potential Future Developments (At time of RFP)

Location	Development		Location	Development
9 Pokiok Road	150 units		139-141 Victoria Street	12 units
144 Main Street	150 units		6 Douglas Avenue	18 units
Metcalf/Albert Street and Main/Albert Street area	70 units		40 Leighside Lane	79 units
144 Main Street	240 units		21-23 Metcalf Street	18 units
Neman Street (adjacent to Holly Street)	240 units		78 Spar Cove Road	12 units
Lansdowne Plaza Area	125 units		139-141 Victoria Street	12 units
53-55 Victoria Street	12 units			

Notes:

- It should be noted by the Consultant that the City has the following approved Capital projects in the north end:
 - Highland Road (Bellevue Avenue to McLellan Street) – Watermain and Sanitary Sewer Renewal, New Storm Sewer Installation and Street Reconstruction.
 - Kennedy Street (Outfall) – Renew approximately 240 m of brick outfall piping.

- WWPS Bridge Street – Reconstruct existing lift station above flood level;
and
- WWPS Kennedy Street – Retrofit lift station above flood level
- The Potential Future Developments are not to be updated in the model. This information is provided for the Consultant in their determining the decision making and prioritizing of sewer separations.
- The Saputo Dairy on Millidge Avenue is no longer in operation.
- It is anticipated that with a proposed new school on Rope Walk Road, Hazen White/St Francis School and Centennial School will no longer be operating as schools and potentially could become future re-development sites.

STUDY REPORT

The Consultant shall gather the information requested in each location (Parts “A”, “B” and “C”) into one comprehensive report. The report’s recommendations shall be a comprehensive list of actionable items, listed in a priority sequence for the location(s) as the City of Saint John will utilize this report for planning/programming future improvements to the sewer system. Recommendations for improvements shall be broken down for each sewer area within the project.

The Consultant shall provide six (6) copies of the draft report and six (6) copies of the final report. The draft report and final report, which includes all text, drawings, maps and sketches, shall also be made available in electronic form.

All reports must be **signed and stamped** by the Consultant’s engineer. All reports submitted to the City shall become the property of the City, which may be used and redistributed as the City sees fit. The Consultant is also to provide the fully calibrated and updated model back to the City which shall become the property of the City, and which may be used and redistributed as the City sees fit.

TIMELINE FOR COMPLETION

This project is 100 % funded through the CMHC Housing Accelerator Fund and as such specific milestones must be achieved for the City to obtain funding. The required submission deadlines for this project are: the Consultant shall have the Flow Monitoring Report (Final) submitted to the City by July 15, 2024; and the Consultant shall have the entire project completed and the Final Report submitted to the City by April 30, 2025. If these dates are not met, the City will not receive the required funding for this project.

GENERAL

Project Initiation

Following award of the project, the Consultant and City of Saint John will have a start-up meeting to clarify project scope and outline the proposed schedule and deliverables. As the City will be relying on this information for future capital budgeting/planning, this project shall be a priority for the Consultant. It is very important to the City for planning purposes to get this project completed as soon as possible.

Other Information

Sewers contain harmful gases, bacteria, micro-organisms, high humidity, odour and insufficient oxygen supply. Health and safety are extremely important and must not be compromised when performing work around sewers. When working on a project for the City of Saint John all parts of the NB Health and Safety Act must be followed. The Consultant must be aware of Part XVII of the NB Health and Safety Act giving the requirements to be met when working in areas deemed to be a confined space. Any person entering a confined space must be aware of the regulations and be trained in health and safety requirements for confined space entry. As stated in the National Guide to Sustainable Municipal Infrastructure, the Consultant shall take all necessary preventive measures when dealing with raw sewerage. The Consultant team shall demonstrate qualifications and proven experience for personnel required to work around raw sewage (Hepatitis A and B, and Tetanus as a minimum).

Any topographic surveys and drawings that are produced (as applicable) shall use the following horizontal and vertical datum: NAD 83 (CSRS) New Brunswick Double Stereographic Projection and the Canadian Geodetic Vertical Datum of 1928 (CGVD28).

The consultant and all sub-consultants must use proper traffic control and warning signage (with approved sign bases) when working or surveying on the streets as per the City's General Specification, latest revision, for construction.

Other than what has been included in this RFP, no additional documents or record information will be made available during the proposal stage. Once the proposal is awarded, the City's record drawings and data will be made available to the Consultant but no guarantee as to their completeness or accuracy will be made. The Consultant shall send their requests in writing for large amounts of data and allow a reasonable amount of time to retrieve such. The Consultant must contact Infrastructure Development staff directly to gather all pertinent data. The Consultant is expected to meet and be familiar with City staff and their respective roles.

The Consultant shall undertake their work in accordance with the latest revision of the following guiding documents:

- City of Saint John's Storm Drainage Design Criteria Manual, latest revision (with consideration for climate change);
- Atlantic Canada Wastewater Guidelines Manual for the Collection, Treatment and Disposal;
- Atlantic Canada Guidelines for the Supply, Treatment, Storage, Distribution, and Operation of Drinking Water Supply Systems;
- City of Saint John General Specifications, latest revision;
- Canada-wide Strategy for the Management of Municipal Wastewater Effluent endorsed by the Canadian Council of Ministers of the Environment (CCME); and
- Climate Change Adaptation Plan for Saint John.

Before reports and related documents are sent to the City for review, the Consultant must have other engineers from their firm review them for errors to ensure only high quality work is released.

The Consultant must identify in the proposal the peer reviewers. The Consultant's peer review engineer(s) must send a memo to the City with the final report stating the outcome of the review.

The Consultant shall **not** be responsible for applying for any of the design approvals and permits necessary from all approval agencies, such as the NBDELG, NBNRED and NBDTI, etc. The Consultant shall undertake a review of permitting requirements and provide a summary of applicable permits and relevant agencies that will be required for the work (each relevant project).

4. METHOD OF PAYMENT:

Upon award of the contract the City will execute an agreement with the successful engineering firm for the work to be performed. Payment of fees shall be in accordance with the terms of the Request for Proposal at the rates submitted and accepted in the Consultant's proposal.

The Consultant shall invoice the City, on a monthly basis, for the work performed in accordance with the engineering services agreement. The Consultant shall provide a status report with each invoice outlining in detail the scope of the work completed during that month. Payments will not be processed unless the invoice is signed by an authorized representative of the company, accompanied by a status report in the proper timed based format (hourly rate x hours worked).

A change in the fees may be considered only if the scope of the engineering work is changed at the request of the City's Engineer.

Maximum or upset fee (including HST) will be included in the proposal for this project beyond which no additional payments will be considered unless first submitted by the Consultant in writing and authorized in writing by the City.

Engineering Contingency - The total price stated must also include \$50,000 + HST as an engineering contingency for unforeseen work. No part of this contingency shall be expended without the written direction of the City's Engineer, and any part not so expended shall be deducted from the contingency allowance.

5. TERMINATION OF CONTRACT:

The City will reserve the right to terminate the contract with the Engineering Firm at any other time during the course of the work. In such an event, payment will be made only for the work completed up to the time of termination.

The City of Saint John does not, by virtue of any proposal request, commit to an award of this bid, nor does it commit to accepting the proposal submitted, but reserves the right to award this proposal in a manner deemed to be in the best interest of the City.

6. CONTENT OF PROPOSAL:

The Consultant shall confirm a clear understanding of the work to be undertaken as described in the Scope of Work. The proposal must demonstrate that the Consultant and its team have recent and significant experience with this type of work. The Consultant team shall demonstrate their experience with the SewerGEMS modelling program in their submitted proposal. When noting examples of experience gained on similar projects, the proposal must also note which current staff members worked on that project and what their role was. The proposal must specifically address all requirements of the work and any matters related to its successful implementation. The proposal must indicate what role each of the Consultant's team will be carrying out for the project. The Consultant may not substitute the project team members noted in the proposal without permission of the City. When proposing a schedule, the Consultant must also indicate that their workload is such that they will have time to complete the project as promised. If the Consultant is very busy, they should either decline the work or propose a longer schedule at the time of the RFP submission.

The proposal shall include the following sections:

A. TECHNICAL PROPOSAL:

- Table of Contents
- Work Plan and Schedule
- Project Team
- Experience with similar projects

B. FINANCIAL PROPOSAL:

- Maximum or Upset Fee(s) for each of Area "A" and Area "B".
- Include a contingency allowance of \$50,000 in the final grand total project cost.
- All costs are to be sub-totaled (including contingency allowance as per below) with the 15% HST component identified separately and added to arrive at a total cost.
- Billing Rate Summary (hourly billing rates for all key personnel).

Description	Area "A"	Area "B"
Project Management		
Review of Existing Data		
Rainfall and Sewer Flow Monitoring and Analysis		
Model Update		
Hydraulic Modeling & System Analysis		
Technical Reporting		
Sub-total		
Combined Sub-Total (Area "A + Area "B")		
Contingency	\$50,000.00	
HST (15%)		
TOTAL COST (Area "A" + Area "B")		

The financial proposal shall include separate prices (including reimbursable expenses) for each Area "A" and Area "B".

A further breakdown is required with the financial proposal to identify all staff participating including hourly rates, hours and reimbursable expenses.

All sub-consultants such as geotechnical, legal survey, electrical, structural and others shall have their fees identified and included in the appropriate part of the proposal.

Additional Funding Submissions

In addition to the Financial Proposal above, unit prices shall be submitted for the following in the Consultant's financial breakdowns. These unit prices will be used if additional work is required (Contingency) or if work is to be removed from the contract (Credit).

- Flow meter (\$/meter/month) – including installation and removal
- Meter rental and monitoring of an installed flow meter (\$/week)
- Video inspection (\$/lineal metre)
- Sewer flushing (\$/hr)*

**The Consultant shall be responsible for removal and proper disposal of all debris and other foreign material removed during the flushing operation. Disposal shall be at the Lancaster Wastewater Treatment Facility. The Consultant will be paid for travel time for the flusher truck between the work site and the disposal site. The Consultant shall have a water truck at their disposal and make effective use of it to convey water to the flusher truck. The City will not pay the Consultant for the time involving demobilization and remobilization required to refill the flusher truck.*

7. EVALUATION CRITERIA:

For the purposes of this proposal call, submissions will be evaluated on the following criteria:

- **QUALITY AND COMPLETENESS** – Has the proposal addressed all of the needs raised? Is the proposal presented in an organized and professional manner? (Criteria weight = 10 points)
- **CONSULTANT'S EXPERIENCE** – Has the proposal demonstrated a level of expertise with the requirements of this project? (Include references for projects of a similar nature.) (Criteria weight = 20 points)
- **EXPERIENCE OF EMPLOYEES / SUB-CONSULTANTS** – Has the proposal demonstrated a level of expertise for the employees of the company and sub-consultants listed? (Include resumes for staff and sub-contractors required.) (Criteria weight = 35 points)
- **METHODOLOGY** – Does the approach to the project outlined in the proposal address, in a realistic sense, attainable goals and is it in keeping with the City's expectations for the project? (Criteria weight = 75 points)
- **VALUE ADDED** – What additional information, technology, process or options has the consultant included in his proposal? Is there value added to the

consultant's response for this additional information? (Criteria weight = 10 points)

- *COST* – Cost will be a factor; however, not the only factor to be considered. (Criteria weight = 50 points)

Consultants are advised that proposals will be evaluated solely on the basis of information submitted in accordance with the request for proposals. The City reserves the right, if deemed necessary, to short-list the proposals and to request an additional verbal presentation from each short-listed proponent. The Consultant may supplement their presentation with a summary in written format to clarify points raised during the process.

8. INSURANCE REQUIREMENTS:

The Consulting engineering firm shall obtain and keep in force, during the full duration of this contract, an Errors and Omissions Liability policy with a minimum limit of two (2) million dollars, and two (2) million dollars **per claim**. The policy shall include a clause stating that thirty (30) days notice of cancellation of this policy will be given to the City of Saint John, by the insurers. Provide evidence of this policy. The Consultant must provide proof of current coverage from WorkSafeNB prior to the start of the work.

The Consultant shall provide evidence of the following insurance coverage:

General Liability with minimum limits of two (2) million dollars per occurrence.
The policy shall include:

- Operations of the consultant in connection with this project;
- Products and completed operations coverage;
- Contractual liability with respect to this project;
- The City of Saint John added as an additional named insured;
- A cross liability clause;
- Non-owned automobile;
- Thirty (30) days written notice of cancellation of this policy will be given to the City of Saint John, by the insurers; and
- Standard automobile insurance for owned automobiles with at least the minimum limits allowed by law.

9. FORMALITY CLAUSE:

In order for the City of Saint John to consider any proposal submission as a legally binding offer, on behalf of the Consultant, it is necessary for the Consultant to communicate this formality to the City in the form of an offer which contains the

original signature of the individual or representative of the firm who is authorized to act on behalf of the Consultant.

In order to meet this requirement, all proposal submissions to the City of Saint John must be prefaced with a covering letter which contains an original signature of the individual authorized by the Consultant to submit proposals on their behalf.

The covering letter must be on official company letterhead, be dated and be addressed to the attention of the City of Saint John representative specified in the request for proposal document. Additionally, the letter must make reference in the body of the letter to the request for proposal number and project title, as well as to the fact that the enclosed documents constitute a formal proposal offer and finally, the letter must contain the original signature as indicated.

Failure to include the required covering letter as a preface with your proposal will be grounds for immediate rejection on the basis that it is not formal.

10. STANDARD TERMS AND CONDITIONS:

Addenda

Periodically, the City of Saint John is required to issue notification of changes or corrections to a bid document by way of addenda. Normally these notifications will have direct bearing on the cost of a project and will influence bidding. Therefore, it is important that the City have assurances that bidders have in-fact received the notification(s).

Bidders are responsible for obtaining all addenda issued by the City. Addenda may be obtained from the City's website (www.saintjohn.ca) under the menu option "Tender and Proposals".

Bidders are required to sign and include all addenda with their bid submission.

Failure to include a copy of all signed addenda with the bid submission may result in rejection of the bid regardless of whether or not the changes noted in the addendum are included in the bid submission.

Advisory Notice(s)

Periodically, the City of Saint John is required to issue clarification notices to a bid document in the form of Advisory Notices. Normally these notifications will not have a direct bearing on the cost of a project and will not influence bidding.

Bidders are responsible for obtaining all advisory notice(s) issued by the City. Advisory Notice(s) may be obtained from the City's website (www.saintjohn.ca) under the menu option "Tenders and Proposals".

Bidders are instructed to sign the Advisory Notice and return it either by fax to (506) 658-4742 or email to supplychainmanagment@saintjohn.ca prior to the closing date.

Failure to comply with the instructions on an advisory may result in rejection of the bid.

Review of Proposals

The evaluation committee may invite proponents to meet with the review committee to make an oral/visual presentation in support of their proposal. The City will provide the meeting venue at its cost. The proponent shall bear its own costs related to such meeting.

Additional Information from Proponents

The City of Saint John reserves the right during evaluation of the bids to seek further information from any proponent and to utilize that information in evaluation and award without becoming obligated to seek further information from any other proponents.

Clarification of Bids

The City of Saint John reserves the right in its sole discretion to clarify any bid after close of bidding without becoming obligated to clarify any other bid.

Negotiation

The City reserves the right in its sole discretion to negotiate the final terms and conditions of the engagement contract with the most probable candidate for award prior to award of the engagement.

Inconsistency between Paper and Electronic Form

If there is any inconsistency between the paper form of a document issued by or on behalf of the City to proponents and the digital, electronic or other computer readable form, the paper form of the document prevails.

Acceptance, Revocation and Rejection of Proposals

The proposal constitutes an offer which shall remain open and irrevocable until ninety (90) days after the date of the proposal opening.

Reserved Rights

The City reserves the right to:

- a) Reject an unbalanced Proposal. For the purpose of this section, an unbalanced Proposal is a Proposal containing a unit price which deviates substantially from, or does not fairly represent, reasonable and proper compensation for the unit of work bid or one that contains prices which appear to be so unbalanced as to adversely affect the interests of the City. The City reserves the right to use Proposals submitted in response to other like or similar Requests for Proposals as a guideline in determining if a bid is unbalanced.
- b) Amend or modify the scope of a project, and/or cancel or suspend the Bid Solicitation at any time for any reason.
- c) Require proponents to provide additional information after the Closing Date for the Bid Solicitation to support or clarify their bids.
- d) Not accept any or all bids.
- e) Not accept a bid from a bidder who is involved in litigation, arbitration or any other similar proceeding against the City.
- f) Reject any or all bids without any obligation, compensation or reimbursement to any bidder or any of its team members.
- g) Withdraw a Bid Solicitation and cancel or suspend the Bid Solicitation process.
- h) Extend, from time to time, any date, any time period or deadline provided in a Bid Solicitation (including, without limitation, the Bid Solicitation Closing Date), upon written notice to all bidders.
- i) Assess and reject a bid on the basis of
 - i. information provided by references;
 - ii. the bidder's past performance on previous contracts;
 - iii. information provided by a bidder pursuant to the City exercising its clarification rights under the Bid Solicitation process;
 - iv. the bidder's experience with performing the type and scope of work specified including the bidder's experience;
 - v. other relevant information that arises during a Bid Solicitation process.

- j) Waive formalities and accept bids which substantially comply with the requirements of the Bid Solicitation.
- k) Verify with any bidder or with a third party any information set out in a bid.
- l) Disqualify any bidder whose bid contains misrepresentations or any other inaccurate or misleading information.
- m) Disqualify any bidder who has engaged in conduct prohibited by the Bid Solicitation documents.
- n) Make changes including substantial changes to the bid documents provided that those changes are issued by way of an addendum in the manner set out in the Bid Solicitation documents.
- o) Select any bidder other than the bidder whose bid reflects the lowest cost to the City.
- p) Cancel a Bid Solicitation process at any stage.
- q) Cancel a Bid Solicitation process at any stage and issue a new Bid Solicitation for the same or similar deliverable.
- r) Accept any bid in whole or in part.

And these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and the City shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any bidder or any third party resulting from the City exercising any of its express or implied rights under a Bid Solicitation.

Limitation of Liability and Waiver

In every Bid Solicitation, the City shall draft the documents such that each bidder, by submitting a bid, agrees that:

- a) Neither the City nor any of its employees, agents, advisers or representatives will be liable, under any circumstances, for any claims arising out of a Bid Solicitation process including but not limited to costs of preparation of the bid, loss of profits, loss of opportunity or any other claim.

- b) The bidder waives any claim for any compensation of any kind whatsoever including claims for costs of preparation of the bid, loss of profit or loss of opportunity by reason of the City's decision to not accept the bid submitted by the bidder, to award a contract to any other bidder or to cancel the Bid Solicitation process, and the bidder shall be deemed to have agreed to waive such right or claim.

Proposal Debrief

Immediately following the City's acceptance of a Proposal submitted, the Office of the Purchasing Agent shall send a written notification of award to all unsuccessful proponents disclosing the name of the successful proponent and providing a brief explanation rationalizing the City's selection:

- a) For all Requests for Proposals valued at Fifty Thousand Dollars **(\$50,000.00) or less**, the written notification of award will be the only form of debriefing offered by the City;
- b) In the case of Requests for Proposals valued **in excess** of Fifty Thousand Dollars **(\$50,000.00)**, the Purchasing Agent may, in addition to the notification of award and upon written request from any proponent, provide a more detailed oral debriefing either by phone or in person, as required by the proponent. During this debriefing, the Purchasing Agent may disclose information such as the total price of the successful proponent and may discuss an overview of the process as well as the strengths and weaknesses of the requesting proponent's proposal.
- c) The written request referred to paragraph (ii) shall be submitted to the Office of the Purchasing Agent no later than fifteen (15) business days after the notification of award is issued.
- d) The acceptance of the successful Proposal shall not be discussed during a debriefing.

11. SUBMITTALS:

When preparing the Agreement for Engineering Services, the consultant is required to submit a "Business Corporation Act Certificate" to the Engineer.

12. ENQUIRIES:

All enquiries regarding this request for proposals shall be submitted in writing via email, by **4:00:00 pm Local Time on Tuesday, February 27, 2024**, only to the attention of:

Chris Roberts, SCMP, CPPB
Procurement Manager
Supply Chain Management
Email: supplychainmanagement@saintjohn.ca

Responses to enquiries will be in writing and distributed by email to all Consultants registered as having received the Terms of Reference as of the date the response is prepared. The source of the question will not be identified in the response. Verbal information shall not be binding upon the City. Enquiries after the above deadline will not receive a response.

13. ATTACHMENTS:

The following documents are being provided to help the consultants understand what work has been completed with the drainage areas. It is expected that the City shall have a stand-alone document at the end of this work.

Upon the consultant's request, a copy of the referenced attachments (iii to vii) will be provided by the City of Saint John via an FTP site. Please e-mail supplychainmanagement@saintjohn.ca to obtain a link to the following attachments:

- i) Draft Consulting Engineering Agreement with the City of Saint John – has been attached to RFP request
- ii) North End Sewer Separation Project Areas drawing (Figure 1) – has been attached to RFP request
- iii) Main Street North Sewer Relocation (EXP, May 2023)
- iv) City of Saint John Overflow Mitigation Strategy – Final Report (CBCL Limited, March 2021)
- v) Millidgeville Sanitary Sewer and Storm Water Model Development - Final Report (CBCL Limited, June 2020)
- vi) ...Shamrock Park Sewer Separation – Preliminary Design Report (CBCL Limited, February 2011)
- vii) ...Shamrock Park Sewershed Sewer Separation – Pipe Report (CBCL Limited, December 2010)

14. OTHER RELEVANT DOCUMENTS:

- Millidgeville Sanitary Sewer and Storm Water Model – to be provided following award of project.
- Granite Net Sewer Condition Information (City of Saint John) – to be provided following award of project.
- City of Saint John General Specifications, latest revision
- To supplement any City GIS information not being fully up to date, the Consultant may need to utilize the City's record drawings, red books, etc. to confirm/validate information.

15. SUBMISSION OF PROPOSALS:

Consultants shall deliver **eight (8)** copies of the Technical Proposal and supporting information and **eight (8)** copies of the Financial Proposal no later than **4:00:00 pm, Local Time, Thursday, March 7, 2024**, clearly indicating the Consultant's name and address and marked "**Proposal: 2024-091004P, Engineering Services: North End Combined Sewer Separation Strategy**", to the attention of:

Chris Roberts, SCMP, CPPB
Procurement Manager, Supply Chain Management
City of Saint John
175 Rothesay Avenue, 1st Floor
Saint John, NB E2J 2B4

Please note that:

1. Late proposals or proposals submitted by facsimile will be rejected.
2. The City assumes no responsibility for improperly addressed or delivered proposals.
3. The City of Saint John does not, by virtue of this proposal call, commit to an award of this proposal, nor does it commit to accepting the lowest or any proposal submitted, but reserves the right to award this proposal in any manner deemed to be in the best interest of the City.
4. The Financial Proposal is to be submitted in the Consultant's package in a separate sealed envelope, clearly marked as "**Financial Proposal: 2024-091004P, Engineering Services: North End Combined Sewer Separation Strategy**", with the consultant's name and address.
5. Consultants must propose on the entire project – incomplete proposals will be rejected.

Immediately following the closing time, proposal packages will be opened in the Office of the Purchasing Agent. Only the names and addresses of the proponents will be made public at this time via the City's website. No other information about the proposals will be disclosed at that time. Proposals will then be forwarded to an evaluation committee for review and recommendation.

THIS **CONSULTING ENGINEERING AGREEMENT** made in triplicate this _____ day of **month, 2024** (the "Effective Date").

BETWEEN:

THE CITY OF SAINT JOHN, having its offices at the City Hall Building at 15 Market Square, Saint John, New Brunswick, a body corporate by Royal Charter, confirmed and amended by Acts of the Legislative Assembly of the Province of New Brunswick, hereinafter called the "City",

OF THE FIRST PART

- and -

CONSULTANT, an extra-provincial corporation registered under the Business Corporations Act, having its head office in the City of **CITY**, Province of **PROVINCE**, hereinafter called the "Consultant",

OF THE SECOND PART

WHEREAS, the City issued a Request for Proposal 2024-091004P for Engineering Services: North End Combined Sewer Separation Strategy [hereinafter referred to as the "Request for Proposal"] attached hereto as Schedule "A";

WHEREAS, the Consultant submitted a Proposal with respect to the Request for Proposal on **Date, 2024** [hereinafter referred to as the "Proposal"] which proposal the City has accepted and attached hereto as Schedule "B";

WHEREAS, the purpose of this Agreement is for Engineering Services: Central Peninsula Combined Sewer Separation Strategy

WHEREAS, the Council on **Date, 2024** resolved that:

The proposal from **CONSULTANT**, for engineering services for the North End Combined Sewer Separation Strategy project in the amount of \$XXX,XXX.XX including HST be accepted and that the Mayor and City Clerk be authorized to execute the appropriate documentation in that regard.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein and subject to the terms and conditions set out in this Agreement, the parties agree as follows:

1. Definitions

The terms defined in this clause shall for all purposes of this Agreement have the meanings specified unless the context otherwise specifies or requires:

1(1) **City Manager** means the city manager of the City or his designate appointed by resolution of Council;

1(2) **Claims** means any actual or threatened loss, liability, cost, charge, interest, claim, demand, allegation, action, cause of action, proceeding, suit, assessment, reassessment, proposed assessment or reassessment, damage, demand, expense, levy, tax, duty, judgment, award, fine, charge, deficiency, penalty, court proceeding or hearing cost, amount paid in settlement, encumbrance, and/or tangible and intangible property right (including all costs and expenses relating to the foregoing, including legal and other professional adviser and expert fees and expenses), and whether arising by contract, at common or statute law, in tort (including negligence and strict liability), in equity, in property or otherwise of any kind or character howsoever, and howsoever arising; and **Claim** means any one of them;

1(3) **Council** means the elected municipal council of the City;

1(4) **Confidential Information** means information disclosed to or obtained by the Consultant in connection with the fulfillment of the terms of this Agreement and which has been identified by Municipal Operations as information which should be treated as confidential and shall be as defined in section 9;

1(5) **Consultant** means the consulting engineering firm who is currently licensed to practice within the Province of New Brunswick to carry out engineering services required to complete the Project and referred to as **CONSULTANT** in this Agreement;

1(6) **Consultant Representative** means the person designated by the Consultant with duly vested authority to act on behalf of the Consultant;

1(7) **Dispute** means any dispute, controversy, Claim, disagreement or failure to agree arising out of, in connection with, or relating to the interpretation,

performance or application of the Agreement; and **Disputes** has a corresponding meaning;

1(8) **Information** means all data, site surveys, preliminary investigations, preliminary designs, design reports with cost estimates, detailed designs, record drawings in digital and hard copy format, plans in digital and hard copy format, public consultation process data or reports, construction management and inspection services data or reports, and other materials developed in pursuance of the Project;

1(9) **Municipal Operations** means the Utilities and Infrastructure Services Department of the City of Saint John;

1(10) **Parties** means the City and the Consultant, respectively; and **Party** means individually the City and the Consultant;

1(11) **Project** means the engineering services for the **North End Combined Sewer Separation Strategy**;

1(12) **Proposal** means the proposal submitted by the Consultant entitled **Engineering Services: North End Combined Sewer Separation Strategy (Proposal # 2024-091004P)**;

1(13) **Services** means those design and construction management services as set out in the Request for Proposal and the Proposal and as set forth in this Agreement; and

1(14) **Work** means the scope of the Consultant's services.

2. General

2(1) The City hereby agrees to retain the Consultant to provide the City with the Services and the Consultant hereby agrees to provide the Services to the City, all in accordance with the provisions of this Agreement.

2(2) The Consultant shall carry out the work in accordance with the Request for Proposal and the Proposal and any other written clarification(s) or addendum(s) thereof that has or have been requested and, provided and agreed to by the parties to this Agreement.

3. Term

3(1) The term of this Agreement commences on the Effective Date and construction of the Project is to proceed as outlined in the Request for Proposal.

4. Scope of Services and Responsibilities

4(1) The Consultant shall perform the Services as set out in the Request for Proposal and the Proposal and any other written clarification(s) or addendum(s) thereof that has or have been requested, provided and agreed to by the Parties to this Agreement, and these Services shall include:

(a) Combined Sewer Separation investigation;

(b) Sewer Outfall investigation;

(c) Combined Sewer Overflow Chamber review;

(d) Flow Monitoring Program;

(e) Sewer Model calibration and update; and

(f) Final Study Report.

4(2) The Consultant shall perform these Services under the general direction and control of Municipal Operations and with all due and reasonable diligence, professional skills and competence.

5. Fees

5(1) The City shall pay to the Consultant the fees in accordance with the Proposal and the provisions of the Request for Proposal including any other written clarification(s) or addendum(s) thereof that has or have been requested and provided and agreed to by the Parties to this Agreement.

5(2) Municipal Operations will review each invoice submitted by the Consultant within five (5) days after receipt and the City shall pay any undisputed amount thereunder within forty-five (45) days of the date of submission of such invoice by the Consultant.

5(3) The fees to be paid by the City for the Services performed hereunder shall be inclusive of any applicable sales taxes.

5(4) With respect to any invoice submitted by the Consultant, the City may, without triggering a default under this Agreement, withhold from any payment otherwise due:

- (a) any amount incorrectly invoiced, provided that the City timely informs the Consultant of the amounts alleged to be incorrectly invoiced and the basis for any such assertion for review, resolution and rebilling purposes; or
- (b) any amount in dispute.

6. Records and Audit

6(1) In order to provide data to support the invoice for fees, the Consultant shall keep a detailed record of hours worked and the billing rate for all staff performing work on the Project. The Consultant agrees that the City may inspect these time records at any reasonable time.

6(2) The Consultant, when requested by the City, shall provide copies of receipts in respect to any disbursements for which the Consultant claims payment.

7. Failure to Perform

7(1) Should the Consultant fail for any cause whatever to perform the Work provided for by this Agreement, or fail to perform the Work in a manner satisfactory to the City, then, in either case, all payments by the City to the Consultant shall cease as of the date of such failure, and the City may appoint its officials, or any other person or persons in the place instead of the Consultant to perform the Work and the Consultant shall have no Claim against the City except for the Work which has been performed by the Consultant under this Agreement up to the time of such failure, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

8. Dismissal and Termination

8(1) In the event that the City, acting reasonably, is dissatisfied with the Work performance by the Consultant or that the Consultant fail to comply with the

specifications and the terms and conditions of this Agreement, the Parties agree that the City may dismiss the Consultant at any time on thirty (30) days' prior written notice. The Consultant will accept payment for Work performed to the date of dismissal on a pro-rated basis in accordance with the provisions of this Agreement, in full satisfaction of any and all Claims under this Agreement, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

8(2) This Agreement may be terminated, without cause, by the City upon thirty (30) days' written notice to the Consultant of the City's intention to terminate same.

8(3) In the event of termination of this Agreement by the City, it shall within forty-five (45) calendar days of termination pay the Consultant, for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions set out in this Agreement, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

8(4) Upon early termination of this Agreement and settlement of accounts, or upon completion of the Consultant's obligations under this Agreement, all information, data, material, sketches, plans, notes, documents, memoranda, specifications or other paper writing belonging to the City and gathered or assembled by the Consultant or their agents, whether in paper or electronic format or otherwise for the purpose of this Agreement, shall forthwith be delivered to the City by the Consultant.

9. Confidential Information

9(1) The Consultant will, both during and following the term of this Agreement, treat as confidential and safeguard any information or document concerning the affairs of the City of which the Consultant acquires knowledge or that comes into its possession by reason of the Work for the City under this Agreement and will not disclose either directly or indirectly any such information or documents to any person, firm or corporation without first obtaining the written permission by the City, except any information or documents as the Consultant determines in its professional judgment should be disclosed to a third party.

9(2) Without limiting the generality of paragraph 9(1):

- (a) The Consultant will not use any information acquired through the performance of this Agreement (herein referred to as "findings") to

gain advantage in any other project or undertaking irrespective of the topic, scale, or scope of such project or undertaking;

- (b) The Consultant will not disclose any findings during or after the performance of this Agreement;
- (c) The Consultant will not respond to any inquiries pertaining to any findings and agrees to refer all such inquiries to the City;
- (d) The Consultant will not disclose or use any information that Municipal Operations cannot or may not wish to disclose;
- (e) The Consultant shall hold all Confidential Information obtained in trust and confidence for Municipal Operations or the City and shall not disclose, except as required by law, any such Confidential Information, by publication or other means, to any person, company or other government agency nor use same for any other project other than for the benefit of the City as may be authorized by the City in writing; and

Any request for such approval by the City shall specifically state the benefit to the City of the disclosure of the Confidential Information.

10. Liability Insurance

10(1) The Consultant, at no expense to the City, shall obtain and maintain in full force and effect during the term of this Agreement, a policy or policies of insurance with the following minimum limits of liability:

- (a) Professional Errors and Omissions Liability Insurance

The Insurance Coverage shall be in the amount of Two Million Dollars (\$2,000,000.00) per claim and in the aggregate. When requested, the Consultant shall provide the City proof of Professional Errors and Omissions Liability Insurance carried by the Consultant and in accordance with the *Engineering and Geoscience Professions Act*, S.N.B. 1999, Chapter 50, and amendments thereto.

(b) Comprehensive General Liability and Automobile Insurance

The Insurance Coverage shall be of not less than Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate for general liability and Two Million Dollars (\$2,000,000.00) for automobile insurance. When requested, the Consultant shall provide the City with proof of Comprehensive General Liability and Automobile Insurance (Inclusive Limits) for both owned and non-owned vehicles.

10(2) The policies of insurance required in paragraphs 10(1)(a) & 10(1)(b) must provide that the coverage shall stay in force and not be amended, cancelled or allowed to lapse without thirty (30) days prior written notice being given to the City. The Consultant agrees to furnish to the City a renewal certificate at least ten (10) calendar days prior to the expiration of the policy.

10(3) The policy of insurance required in paragraph 10(1)(b) shall name the City as an additional insured and shall contain a cross-liability clause.

10(4) The Consultant shall obtain and maintain in full force and effect during the term of this Agreement coverage from WorkSafeNB.

10(5) The Consultant shall submit to the City satisfactory evidence of having obtained the insurance coverage required and shall submit certificates of such coverage as well as current coverage from the WorkSafeNB forthwith to the City upon execution of this Agreement.

10(6) Nothing in this section 10 shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which the Consultant may be held responsible for payments of damages to persons or property.

11. Project Managers

11(1) The City shall designate a project manager to work directly with the Consultant in the performance of this Agreement.

11(2) The Consultant shall designate a Consultant Representative who shall represent it and be its agent in all consultations with the City during the term of this Agreement. The Consultant or its Consultant Representative shall attend and assist in all coordination meetings called by the City.

12. Responsibility for Errors

12(1) The Consultant shall be responsible for its work and results under this Agreement. The Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to the City.

12(2) In the event that an error or omission attributable to the Consultant's negligence, then the Consultant shall, at no cost to the City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the error or omission to the sole satisfaction of the City, acting reasonably, and to participate in any meeting required with regard to the correction.

13. Remedies

13(1) Subject to sections 18 and 19 hereof, upon default by either Party under any terms and conditions of this Agreement, and at any time after the default, either Party shall have all rights and remedies provided by law and by this Agreement.

13(2) No delay or omission by the Parties in exercising any right or remedy shall operate as a waiver of them or of any other right or remedy, and no single or partial exercise of a right or remedy shall preclude any other or further exercise of them or the exercise of any other right or remedy. Furthermore, any Parties may remedy any default by the other Party in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the defaulting party. All rights and remedies of each Party granted or recognized in this Agreement are cumulative and may be exercised at any time and from time to time independently or in combination.

14. Indemnification

14(1) Subject to subsection 14(2) hereof, but notwithstanding any other clauses herein, the Consultant shall indemnify and save harmless the City from all Claims, or other proceedings by whomsoever claimed, made, brought or prosecuted in any manner and whether in respect of property owned by others or in respect of damage sustained by others based upon or arising out of or in connection with the performance of this Agreement or anything done or purported to be done in any manner hereunder, but only to the extent that such Claims, or other proceedings are attributable to and caused by the Consultant's negligence, errors or omissions.

14(2) In no event shall the Consultant be obligated to indemnify the City in any manner whatsoever in respect of any Claims, or other proceedings caused by the negligence of the City, or any person for whom the City is responsible.

15. Contract Assignment

15(1) This Agreement cannot be assigned by the Consultant to any other service provider without the express written approval of the City.

16. Performance

16(1) All Parties agree to do everything reasonably necessary to ensure that the terms of this Agreement are met.

17. Non-Performance

17(1) The failure on the part of any Parties to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

18. Dispute Resolution

A. Referral to Senior Management

18(1) All Disputes arising out of, or in connection with, this Agreement, or in respect of any legal relationship associated with or derived from this Agreement shall within two (2) Business Days be referred for resolution to the City Manager and the Consultant Representative.

18(2) If the City Manager and Consultant Representative are not able to resolve the Dispute referred to them under this section 18 within seven (7) Business Days following such referral, the matter shall be referred for resolution by way of mediation upon the willingness of the Parties.

B. Mediation

18(3) Despite an agreement to mediate, a Party may apply to a court of competent jurisdiction or other competent authority for interim measures of protection at any time.

18(4) If the Parties resolve to mediate the Dispute referred to them under subsection 18(2), the Parties shall invoke the following mediation process:

- (a) Either Party shall immediately declare an impasse and provide written notice to the other within seven (7) Business Days thereof (or such other period as the Parties mutually prescribe) declaring that such party wishes to proceed to mediation and setting out in reasonable detail the issue(s) to be resolved, the proposed time and a list of at least three (3) and not more than five (5) proposed mediators. Each of the proposed mediators shall be an individual:
 - (i) with at least three (3) years' experience working in an executive capacity or representing clients in the area of public disputes, and
 - (ii) unless otherwise agreed by the Parties, with no prior connection, affiliation or other formal relationship with either Party.
- (b) Upon receipt of such notice, the notified party shall have two (2) Business Days to select one (1) of the proposed mediators as the mediator, failing which the Party providing notice shall select one (1) of its proposed mediators as the mediator. Within seven (7) Business Days following selection of the mediator the matter shall be heard by the mediator.
- (c) The mediator shall be entitled to establish his or her own practices and procedures. Each Party shall co-operate fully with the mediator and shall present its case to the mediator orally and/or in writing within (10) Business Days following the mediator's appointment. The mediation shall not be in the nature of arbitration as contemplated by the *Arbitration Act*, SNB 2014, c 100, and the mediator's decision shall not be binding upon the Parties, but shall be considered as a bona fide attempt by the mediator to judiciously resolve the Dispute. The decision of the mediator shall be rendered in a written report, not to exceed two (2) pages in length, delivered to the Parties within ten (10) Business Days following the last of such presentations. The fees of the mediator shall be shared equally by the Parties.

18(5) The mediation shall be terminated:

- (a) By the execution of a settlement agreement by the Parties; or
- (b) By a written declaration of one or more parties that the mediation is terminated; or
- (c) By a written declaration by the mediator that further efforts at mediation would not be useful.

18(6) The place of mediation shall be the City of Saint John and Province of New Brunswick.

C. Arbitration

18(7) In the event that the Parties are unwilling to mediate their Dispute or that the Dispute between the Parties remain unresolved after mediation has been attempted in good faith, then either the City or the Consultant, upon written notice to the other, may refer the Dispute for determination to a Board of Arbitration consisting of three (3) persons, one (1) chosen by and on behalf of the City, one (1) chosen by and on behalf of the Consultant and the third chosen by these two.

18(8) In case of failure of the two arbitrators appointed by the Parties hereto to agree upon a third arbitrator, such third arbitrator shall be appointed by a Judge of The Court of Queen's Bench of New Brunswick.

18(9) No one shall be appointed or act as arbitrator who is in any way interested, financially or otherwise, in the conduct of the work or in the business or other affairs of either Party.

18(10) Notwithstanding the provisions of the *Arbitration Act*, SNB 2014, c 100, the Board of Arbitration, upon such terms and conditions as are deemed by it to be appropriate, may allow a Party to amend or supplement its claim, defence or reply at any time prior to the date at which the Parties have been notified of the arbitration hearing date, unless the Board of Arbitration considers the delay in amending or supplementing such statements to be prejudicial to a Party. The Board of Arbitration will not permit a Party to amend or supplement its claim, defence or reply once the arbitration hearing has been scheduled.

18(11) The Board of Arbitration may encourage settlement of the Dispute and, with the written agreement of the Parties, may order that mediation, conciliation or other

procedures be used by the Parties at any time during the arbitration proceedings to encourage settlement.

18(12) If, during the arbitration proceedings, the Parties settle the Dispute, the Board of Arbitration shall, upon receiving confirmation of the settlement or determining that there is settlement, terminate the proceedings and, if requested by the Parties, record the settlement in the form of an arbitration award on agreed terms.

18(13) Subject to subsection 18(14), any determination made by the Board of Arbitration shall be final and binding upon the Parties and the cost of such determination shall be apportioned as the Board of Arbitration may decide.

18(14) Either Party may appeal an arbitration decision to The Court of Queen's Bench of New Brunswick: (i) on a question of law; or (ii) on a question of fact; or (iii) on a question of mixed fact and law.

18(15) The place of arbitration shall be the City of Saint John and Province of New Brunswick and the provisions of the *Arbitration Act*, SNB 2014, c 100, New Brunswick, shall apply to the arbitration.

D. Retention of Rights

18(16) It is agreed that no act by either Party shall be construed as a renunciation or waiver of any rights or recourses provided the Party has given the notices required under section 18 and has carried out the instructions as provided in section A of this Part.

18(17) Nothing in section 18 shall be construed in any way to limit a Party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of New Brunswick and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that Party may have under section B of this Part to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

19. Force Majeure

19(1) It is agreed between all Parties that neither Parties shall be held responsible for damages caused by delay or failure to perform his undertakings under the terms and conditions of this Agreement when the delay or failure is due to strikes,

labour disputes, riots, fires, explosions, war, floods, acts of God, lawful acts of public authorities, or delays or defaults caused by common carriers, which cannot be reasonably foreseen or provided against. After ninety (90) consecutive or cumulative days of the suspension of Party's obligations due to force majeure, the other Party may terminate the Agreement.

20. Time

20(1) This Agreement shall not be enforced or bind any of the Parties, until executed by all the Parties named in it.

21. Notices

21(1) Any notice under this Agreement shall be sufficiently given by personal delivery or by registered letter, postage prepaid, mailed in a Canadian post office and prepaid courier, addressed, in the case of notice to:

The City:

Municipal Operations
City of Saint John
175 Rothesay Avenue
Saint John, New Brunswick
E2J 2B4

Telephone: 506-658-4455

CONSULTANT:

CONSULTANT.
STREET ADDRESS
CITY, PROVINCE
XXX XXX

Telephone: XXX-XXX-XXXX

or to any other address as may be designated in writing by the Parties and the date of receipt of any notice by mailing shall be deemed conclusively to be five (5) calendar days after the mailing.

22. Reference to Prior Agreement

22(1) This Agreement supersedes and takes the place of all prior agreements entered into by the Parties with respect to the consulting engineering services for the North End Combined Sewer Separation Strategy.

23. Amendments

23(1) No change or modification of this Agreement shall be valid unless it is in writing and signed by the Parties.

24. Acknowledgment of Terms and of Entirety

24(1) It is agreed that this written instrument embodies the entire agreement of the Parties with regard to the matters dealt with in it, and that no understandings or agreements, verbal or otherwise, exist between the Parties except as expressly set out in this instrument or as set out in the Request for Proposal or the Proposal or any written clarification(s) or addendum(s) that are included as part of this Agreement.

25. Further Documents

25(1) The Parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this Agreement.

26. Validity and Interpretation

26(1) Paragraph headings are inserted solely for convenience of reference, do not form part of this Agreement, and are not to be used as an aid in the interpretation of this Agreement.

26(2) The failure of the Parties to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered a waiver of any right thereafter to insist upon strict adherence to that term or condition or any other term or condition of this Agreement.

26(3) The Schedules to the Agreement form part of and are incorporated into the Agreement as fully and effectively as if they were set forth in the Agreement.

27. Governing Law

27(1) This Agreement shall be governed by and construed in accordance with the laws of the Province of New Brunswick and the federal laws of Canada applicable therein.

28. Successors, Assigns

28(1) This Agreement shall enure to the benefit of and be binding on the successors and assigns of the City and on the successors and permitted assigns of the Consultant.

29. Severability

29(1) It is intended that all provisions of this Agreement shall be fully binding and effective between the Parties, but in the event that any particular provision or provisions or part of one is found to be void, voidable or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed severed from the remainder of this Agreement and all other provisions shall remain in full force.

30. Independent Legal Advice

30(1) The Parties acknowledge having obtained their own independent legal advice with respect to the terms of this Agreement prior to its execution.

31. Acknowledgment of Receipt of Copy

31(1) Each Parties acknowledge receipt of a true copy of this Agreement.

(The remainder of this page is intentionally left blank)

Date, 2024

EMPLOYEE

