



Date: September-13-19
To: Bidders for Norfolk County Bid No. PW-FAC-19-16
Consulting Services for the Development of a Norfolk County Climate Change Adaptation Plan
From: Michael Simoes, P.Eng., Contracts Coordinator, Energy and Facilities,
Public Works
Michael.Simoes@norfolkcounty.ca
Subject: Addendum No. 01 (3 pages plus 10 pages of attachments)

ADDENDUM No. 01

This Addendum shall form part of the Contract Documents.

The Bidders should acknowledge receipt of this Addendum on the Submission Form – Appendix A.

1. Question:

Who does the County believe to be the main stakeholders required during stakeholder engagement?

Answer:

Delete:
Section 2.1.2 a

Replace With:
Section 2.1.2 a

Devise and implement a plan for engaging key local stakeholders, including but not limited to: Norfolk County staff (including the Haldimand-Norfolk Health Unit), the Norfolk County Climate Change Adaptation Committee, local Conservation Authorities, Alternative Land Use Services (ALUS), Norfolk County Environmental Advisory Committee, senior levels of government, general public, local businesses/developers (if applicable), etc. The Plan shall include ample opportunity for public engagement and feedback throughout the Plan development.

2. Question:

Will the Consultant have access to all strategic plans (including transportation plans, active transportation master plan, etc.) and GIS mapping of the County?

Answer:

The County will provide access to all available GIS mapping and relevant official strategic plans to the Successful Proponent when Plan development commences.

3. Question:

Is there any flexibility with the schedule?

Answer:

No, the Consultant must make all attempts to maintain the project schedule.

4. Question:

Can you outline the composition of the Norfolk County Climate Change Adaptation Committee?

Answer:

Yes. The Norfolk County Climate Change Adaptation Committee currently has ten members: two Norfolk County Councillors, three general public members, one representative from the Long Point Region Conservation Authority and four Norfolk County staff members.

5. Question:

Can you comment on whether the county will consider the use of the MEA-CEO agreement for these services?

Answer:

Delete:

Appendix E – Sample Form of Agreement, Professional Services Agreement

Replace With:



Rev. 06.17
FO-153

Appendix E – Sample Form of Agreement, MEA-CEO Agreement as modified by the County (attached)

End of Addendum

Attachments – Sample Form of Agreement, MEA-CEO Agreement as modified by the County



**M.E.A./C.E.O.
CLIENT/CONSULTANT AGREEMENT
FOR
MUNICIPAL WORKS
2006**

The Engineering Services Agreement will be prepared by the Consultant using the standard Norfolk County 2006 MEA/CEO agreement as modified by the County.

AGREEMENT CONTENTS

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Contents of MEA/CEO Consultants Agreement

Form of Agreement

**AGREEMENT
FOR
PROFESSIONAL CONSULTING SERVICES**

MEMORANDUM OF AGREEMENT dated the _____ day of _____ A. D.
20__

-BETWEEN-

THE CORPORATION OF NORFOLK COUNTY_

Hereinafter called the 'Client'

THE PARTY OF THE FIRST PART

-AND-

Hereinafter called the 'Consultant'

THE PARTY OF THE SECOND PART

WHEREAS the Client intends to

hereinafter called the 'Project' and has requested the Consultant to furnish professional services in connection therewith;

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

ARTICLE 1 - GENERAL CONDITIONS

1.01 Retainer

The Client hereby retains the services of the Consultant in connection with the Project and the Consultant hereby agrees to provide the services described herein under the general direction and control of the Client.

In this Agreement the word Consultant shall mean professionals and other specialists engaged by the Client directly and whose names are party to this Agreement.

1.02 Services

The services to be provided by the Consultant and by the Client for the Project are set forth in Article 2 and such services as changed, altered or added to under Section 1.08 are hereinafter called the 'Services'.

1.03 Compensation

The Client shall pay the Consultant in accordance with the provisions set forth in Article 3. For purposes of this agreement, the basis of payment shall be as specified in Article 3.2. ____.

1.04 Staff and Methods

The Consultant shall perform the services under this agreement with that degree of care, skill and diligence normally provided in the performance of such services as contemplated by the agreement at the time such services are rendered and as required by the Professional Engineers Act (RSO 1990, Chapter P. 28) and regulations therein. The Consultant shall employ only competent staff who will be under the supervision of a senior member of the Consultant's staff.

1.05 Drawings and Documents

Subject to Section 3.2.4 of Article 3, drawings and documents or copies thereof required for the Project shall be exchanged between the parties on a reciprocal basis. Documents prepared by the Consultant for the Client, including record drawings, may be used by the Client, for the Project herein described. In accordance with Article 1.06, the client indemnifies the Consultant for unauthorized use of the documents and deliverables.

1.06 Intellectual Property

All concepts, products or processes produced by or resulting from the Services rendered by the Consultant in connection with the Project, or which are otherwise developed or first reduced to practice by the Consultant in the performance of his Services, and which are patentable, capable of trademark or otherwise, shall be considered as Intellectual Property and remain the property of the Consultant.

The Client shall have permanent non-exclusive royalty-free license to use any concept, product or process, which is patentable, capable of trademark or otherwise produced by or resulting from the Services rendered by the Consultant in connection with the Project and for no other purpose or project.

1.07 Records and Audit

(a) In order to provide data for the calculation of fees on a time basis, the Consultant shall keep a detailed record of the hours worked by staff employed for the Project.

- (b) The Client may inspect timesheets and record of expenses and disbursements of the Consultant during regular office hours with respect to any item which the Client is required to pay on a time scale or disbursement basis as a result of this Agreement.
- (c) The Consultant, when requested by the Client, shall provide copies of receipts with respect to any disbursement for which the Consultant claims payment under this Agreement.

1.08 Changes and Alterations and Additional Services

With the consent of the Consultant the Client 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 Client necessitates additional staff or services, the Consultant shall be paid in accordance with Section 3.2.1 for such additional staff employed directly thereon, together with such expenses and disbursements as allowed under Section 3.2.4. In the event that the client delays the project then the consultant shall have the right to renegotiate the agreement.

1.09 Suspension or Termination

Either party may at any time by notice in writing to the other party, suspend or terminate the Services or any portion thereof at any stage of the project. Upon receipt of such written notice, the Consultant shall perform no further Services other than those reasonably necessary to close out his Services. In such an event, the Consultant shall be entitled to payment in accordance with Section 3.2. for any of the Consultant's staff employed directly thereon together with such expenses and disbursements allowed under Section 3.2.

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

1.10 Indemnification

The Consultant hereby agrees to indemnify and hold harmless the County, its employees, and authorized agents (collectively, the "Indemnified Parties") from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including Claims for third party bodily injury (including death), personal injury and property damage, in any way based upon or occasioned by the negligence or willful misconduct, whether by act or omission, of the Consultant, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Consultant's obligations under, or otherwise in connection with, the Contract. The Consultant further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including, without limitation, Norfolk County, claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

1.11 Insurance

Commercial General Liability Insurance. The Consultant shall at its expense obtain and keep in force, during the term of this Agreement, commercial general liability insurance be written with an insurer licensed in the Province of Ontario and satisfactory to the County, having the following characteristics: (i) a limit of liability of not less than Two Million Dollars (\$2,000,000.00) per occurrence; (ii) the County shall be named as an additional insured; (iii) the policy shall contain a provision for cross liability in respect of the named insured; (iv) non-owned automobile coverage with a limit of at least Two Million Dollars (\$2,000,000.00) including without limitation contractual non-owned coverage; and (v) completed operations coverage.

Automobile Insurance. If the Consultant is using a vehicle, which has been licensed for use in Ontario by the relevant governmental authority and bears validly issued Ontario license plates for such vehicle, to complete any work under this Agreement, then the Contractor shall obtain and keep in force for the duration of this Agreement, automobile insurance under a standard automobile policy with limits of not less than Two Million Dollars (\$2,000,000.00) in respect of each such vehicle.

Professional Liability / Errors & Omissions. The Consultant shall at its expense obtain and keep in force, during the term of this Agreement, an errors and omissions liability policy with a limit of Two Million Dollars (\$2,000,000.00) per claim, satisfactory to the County, and provide proof of the limits of this liability coverage. At the termination of the agreement the policy is to be renewed for the next 2 years and a certificate of insurance evidencing renewal is to be provided each and every year. If the policy is to be cancelled or non-renewed for any reason, 90 days notice of said cancellation or non-renewal must be provided to the Municipality. The Municipality has the right to request that an Extended Reporting Endorsement be purchased by the contractor at the contractor's sole expense.

Proof of Insurance. The Consultant shall provide, together with its executed Agreement, certificate(s) of insurance or certified copy(ies) of the above referred to policies, satisfactory to Norfolk. Provided that if a certificate is provided, all requirements as above set forth must be shown on the said certificate and notwithstanding the provision of any certificate, Norfolk may require that the Consultant provide a certified copy of the policy, if required. This shall be provided prior to the commencement of any work.

The Consultant shall further provide that evidence of the continuance of said insurance is filed at each policy renewal date for the duration of the contract.

1.12 Contracting for Construction

Neither the Consultant nor any person, firm or corporation associated or affiliated with or subsidiary to the Consultant shall tender for the construction of the Project, or have an interest either directly or indirectly in the construction of the Project.

1.13 Assignment

Neither party may assign this Agreement without the prior consent in writing of the other.

1.14 Previous Agreements

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

1.15 Approval by Other Authorities

Unless otherwise provided in this Agreement, where the work of the Consultant is subject to the approval or review of an authority, department of government, or agency other than the Client, such applications for approval or review shall be the responsibility of the Consultant, but shall be submitted through the offices of the Client and unless authorized by the Client in writing, such applications for approval or review shall not be obtained by direct contact by the Consultant with such other authority, department of government or agency.

1.16 Principals and Executives

The use of Principals and Executives on a time basis by the Consultant, will be in accordance with Section 1.23.1 (c).

1.17 Sub-Consultants

The Consultant may engage others as sub-consultants for specialized services provided that prior approval is obtained, in writing, from the Client and may add a mark-up of not more than 5% of the cost of such services to cover office administration costs when claiming reimbursement from the Client plus the cost of the additional insurance incurred by the Consultant for the specialized services.

1.18 Inspection

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

1.19 Publication

The Consultant agrees to obtain the consent in writing of the Client before publishing or issuing any information regarding the Project.

1.20 Confidential Data

The Consultant shall not divulge any specific information identified as confidential, communicated to or acquired by him, or disclosed by the client in the course of carrying out the Services provided for herein. These obligations of confidentiality shall not apply to information which is in the public domain, which is provided to the Consultant by a third party without obligation of confidentiality which is independently developed by the Consultant without access to the Client's information, or which is required to be disclosed by law or by court order. No such information shall be used by the Consultant on any other project without the approval in writing of the client.

1.21 Dispute Resolution

- (a) If requested in writing by either the Client or the Consultant, the Client and the Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of ninety (90) calendar days with the mediator, the dispute shall be referred to and finally resolved by arbitration under the rules of the province having jurisdiction or by an arbitrator appointed by the agreement of the parties.
- (b) 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 Client or the Consultant.
- (c) The award of the arbitrator, including an award for costs if applicable, shall be final and binding upon the parties.
- (d) The provisions of The Arbitration's Act, R.S.O., 1991, Chapter 17, as amended shall apply.

1.22 Time

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

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

1.23 Estimates, Schedules and Staff List

1.23.1 Preparation of Estimate of Fees, Schedule of Progress and Staff List

When requested by the Client, and where payment is calculated on a time basis, the Consultant shall provide, for approval by the Client:

- (a) An estimate of the total fees to be paid for the Services.
- (b) A Schedule showing an estimate of the portion of the Services to be completed in each month and an estimate of the portion of the fee which will be payable for each such month.
- (c) A Staff list showing the number, classifications and hourly rate ranges for staff, Principals and Executives, for which the Consultant will seek payment on a time basis. The Consultant shall relate such information to the particular type of work that such staff is to perform, while employed on the Project. Such list shall designate the member of the Consultant's staff who is to be the liaison person between the Consultant and the Client.

1.23.2 Subsequent Changes in the Estimate of Fees, Schedule of Progress and Staff List

The Consultant will require prior written approval, from the Client for any of the following changes:

- (a) Any increase in the estimated fees beyond those approved under Subsection 1.23.1 (a).
- (b) Any change in the schedule at progress which results in a longer period than provided in Subsection 1.23.1 (b).

- (c) Any change in the number, classification and hourly rate ranges of the staff provided under Subsection 1.23.1 (c).

1.23.3 Monthly Reporting of Progress

When requested by the Client, the Consultant shall provide the Client with a written report showing the portion of the Services completed in the preceding month.

1.24 Additional Conditions

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA) – Prior to the commencement of any work under this Agreement the contractor (s) performing work for Norfolk County must comply with the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and the Integrated Accessibility Standards Regulation (O. Reg. 191/11).

Pursuant to section 7 and section 80.49 of O. Reg. 191/11, Integrated Accessibility Standards Regulation, made under the AODA, Contractors who provide goods, services or facilities on behalf of the County shall ensure that all of their employees, agents, volunteers, or others for whom they are responsible, receive training on the requirements of the accessibility standards referred to in the Integrated Regulation and on the Human Rights Code as it pertains to persons with disabilities. The Contractor shall submit to Norfolk County, if requested, documentation describing its accessibility training policies, practices and procedures, and a summary of the contents of training, together with a record of the dates on which training is provided and the number of attendees.

Prior to commencement of any work under this contract the Contractor shall submit a completed and signed **AODA Contractor Compliance Statement Form FO-119** as evidence of compliance with O. Reg. 191/11, Integrated Accessibility Standards Regulation, under the AODA.

Accessible Documents / Communication

Studies, Reports and/or Plans that result from this project must be created and provided to the County in an accessible format compatible to Adobe Acrobat XI or higher. Please refer to the [Norfolk County Purchasing web page](#) for a link on How to Create Accessible Documents.

Documents created, adapted or otherwise presented on behalf of the County or to County employees will be made available in accessible formats as required in the AODA and O. Reg. 191/11, for the lifespan of the document.

Unless determined by the County to not be practicable, contractors shall ensure that any information, products, deliverables and/or communication (as defined in the Integrated Regulation) produced pursuant to a Contract shall be in conformity with World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and shall be provided in accessible Word, Excel, PowerPoint, PDF etc.

Websites and Web Content

As per the Integrated Accessibility Standards Regulation under the AODA, internet websites and web content must conform to the World Wide Web Consortium (W3C), Web Content Accessibility Guidelines (WCAG) 2.0 Level AA. With the exception of (live) captions and (pre-recorded) audio descriptions.

The successful proponent will undertake all necessary tasks to redesign and update the website, to achieve compliance with WCAG 2.0 Level AA. The proponent will be responsible for providing a fully functional accessible website, which conforms to WCAG 2.0 Level AA.

Norfolk County requires web content created for the municipality to be provided in accessible PDF to comply with World Wide Web Consortium (W3C), Web Content Accessibility Guidelines (WCAG) 2.0 Level AA requirements.

Videos

Videos must include but are not limited to; open captioning, transcripts, audio description and ASL/LSQ interpretation (standard 30 frame/second for sign language interpretation insert).

Language in the videos will be consistent with the Ministry of Economic Development, Trade and Employment document "*Talk About Disabilities, Choose the Right Word*"

Facilitators

Consultants who facilitate a public open house or otherwise seek/receive feedback on behalf of the County shall ensure that all communication, equipment and materials take into account people's disabilities so that all in attendance may participate equally as outlined in the AODA legislation. This includes but is not limited to:

- a. Communicate in a format that allows an individual to receive/provide all information in an alternate format;
- b. Holding events in venues that are physically accessible;
- c. Communicate at all opportunities that documents are available in accessible formats and communication supports, provide contact information for these requests and be prepared to provide this accommodation;
- d. Utilize the County's assistive listening equipment;
- e. Ensure that the event aligns with the County's Accessibility Policies and Procedures.

Self-Serve Kiosks

The Integrated Accessibility Standards Regulation under the AODA requires that accessibility features be incorporated when designing, procuring or acquiring self-service kiosks. A kiosk is defined in this legislation as an interactive electronic terminal, including a point-of-sale device, intended for public use that allows users to access one or more services or products or both. The vendor/supplier must demonstrate how the kiosks will comply with the Integrated Regulation, AODA requirements.

WSIB. A Schedule for Services signed by both County and Contractor shall be of no force and effect until either: (i) the Contractor provides the County with a clearance certificate issued by the Workplace Safety and Insurance Board (the "Board"), in form and substance satisfactory to the County, certifying that the Contractor is registered with the Board and all its accounts are in good standing; or (ii) the Contractor provides the County with an Independent Operator Certificate issued by the Board, in form and substance satisfactory to the County, certifying that the Contractor is an independent operator running its own business and is not required to be registered for or to contribute to an account with the Board for its business; or (iii) the Contractor provides proof that their specific business is exempt for being required to register for or to contribute to an account with the Board for its business. The Contractor covenants to keep any account it has with the Board or any governmental agency in good standing throughout the term of this Agreement and to provide the County every ninety days (90) days with a clearance certificate issued by the Board, in form and substance satisfactory to the County.

ARTICLE 2 – SERVICES

2.01 Services to be provided by Consultant

The Consultant will be responsible for providing consulting services relating to the development of a Norfolk County Climate Change Adaptation Plan, as described within and in accordance with the terms and provisions as set out in the Request For Proposals (RFP Number PW-FAC-19-16) (the "RFP") as issued by the County relating to such (collectively the "Services").

The Consultant shall render the Services in accordance with the highest professional standards. The Consultant acknowledges that in entering into this Agreement the County is relying upon the Consultant's representations as to competency and capability to provide the Services in a competent and professional manner. The Consultant shall provide the County with a copy of his current registration with his regulatory bodies should he be requested to do so by the County.

In carrying out the Services, the Consultant shall comply with all reasonable requests that the Consultant may receive from the County.

The Consultant shall provide reports to the County concerning the Services provided herein at such times as is reasonably requested by the County.

2.02 Services to be provided by Client

ARTICLE 3 - FEES AND DISBURSEMENTS

3.1 Definitions

For the purpose of this Agreement, the following definitions shall apply:

(a) **Cost of the Work:**

- (i) The "Cost of the Work" shall mean the total cost of the Project including all materials, equipment, sales taxes, labour and contractor's overhead and profit, necessary to complete the work for which the Consultant prepares designs, drawings or specifications, for which he is responsible. Where sales taxes are not included in the cost of the work, the fee shall be adjusted upwards by the factor equivalent to the sales taxes. The adjusted fee may be computed to the nearest one-tenth of one percent (1/10%).
- (ii) Wherever the client furnishes labour or other service which is incorporated in the work, the current price of labour or other service when the work was executed shall be used to compute the Cost of the Work.
- (iii) Whenever used materials or equipment is furnished by or on behalf of the Client, the fair market value of such materials or equipment, as though it was purchased new, shall be used to compute the Cost of the Work.
- (iv) In computing the Cost of the Work, no deductions shall be made on account of any penalties or damages claimed by the Client from any contractor or on account of any other sum withheld from any contractor.
- (v) The Cost of the Work shall not include any fees and disbursements due to the Consultant, the Client's engineering and office expenses, or cost of land.

(b) **Site:**

Site includes the actual work site and other locations where the checking of materials, equipment and workmanship is carried out.

3.2 Basis of Payment

3.2.3 Lump-Sum Fee / Negotiated Fee

3.2.3.1 Lump-Sum Fee Basis

- (a) Fees for the scope of work covered under this Agreement will be on a Lump-Sum Fee Basis, inclusive for labour and reimbursable expenses.
- (b) Monthly progress invoices will be based on the percentage of project completed or milestone achieved. Invoices for fees are due upon presentation. Accounts unpaid after 30 days are

subject to monthly interest charges at a rate of ___% per annum. The Consultant reserves the right, without penalty, to discontinue services in the event of non-payment.

- (c) If the project is abandoned or delayed for any reason beyond the Consultant's control, the Client shall pay a fee for services rendered to that date, plus the termination expenses reasonably incurred by the Consultant in winding down the project.
- (d) GST will be added to the Lump-Sum Fee.

3.3 Payment

3.3.3 Lump Sum Fee/Negotiated Fee

- (a) Compensation

The Client will compensate the Consultant in accordance with the fees and charges for services as set out in the proposal or as otherwise mutually agreed. All fees and charges will be payable in Canadian funds unless noted otherwise. Invoices will be due and payable, as presented and without hold backs, by the Client upon receipt. Interest on overdue accounts will be charged at the rate of ___% per annum.

SIGNED, SEALED AND DELIVERED

in the presence of:) _____
) _____
) _____
) _____
) _____
) _____
) _____

CONSULTANT

The signatory shall have the authority to bind the corporation or company for purposes of this agreement

(Signature)

(Name)

(Title)

THE CORPORATION OF

The signatory shall have the authority to bind the municipality or its agency for purposes of this agreement

MAYOR/CHAIRMAN/REEVE/WARDEN

CLERK