



## **Request for Proposals**

**Partnership to Deploy and Operate an  
Open-Access Broadband Utility Network**



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## **PART I. INVITATION**

### **1. INTRODUCTION**

This Request for Proposals (RFP) is an invitation from the Town of Vermilion (the “Town”) to prospective proponents to submit proposals for a Partnership to design, build, commission, and then operate a fibre-to-the-premise (FTTP) network throughout the Town. The buried, lit FTTP network is to be operated on an open-access basis and will enable XGS-PON or NG-PON2 connections to every public, residential, commercial, and industrial premise within the Town. To reduce risk and ensure initial revenue, the proposal must include the option for triple-play (Internet, telephone, and television) services delivery from an established ISP. It is the intent of the Town to select a single proponent to accomplish all requirements outlined in this RFP.

The Town is seeking to develop a partnership with the successful Proponent to share the technological responsibilities together with the financial costs and proceeds of the Project. The Proponent shall provide an estimated cost and funding formula to establish and then operate and maintain the network. The Town is open to a public-private-partnership or other joint-venture-type agreement that could include a capital contribution from the Town and revenue sharing. The Town’s specific contributions and terms are to be negotiated.

The response timeline is short as the focus of this RFP is on the development of a Partnership that will enable the Town to realize its broadband vision and have shovels in the ground in 2021. The more detailed design, engineering, procurement, construction, commissioning, and operational setup requirements will be negotiated with the successful proponent.

### **2. PROJECT BACKGROUND**

The Town of Vermilion, Alberta, is situated within the Town of Vermilion River in eastern Alberta and approximately 60 km west of Lloydminster and approximately 60 km southwest of the North Saskatchewan River.

The Town of Vermilion is home to more than 400 businesses and 1,200 single-family residential units and 12 multi-family residential complexes. The town is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional agriculture and technology-based services.

Given the importance of economic growth, the Town has made it a priority to enable fibre-based connectivity for its residents and commercial businesses. To achieve this, the Town intends to partner with a suitable vendor and establish an FTTP network that will serve the entire community.

### **3. PROJECT OBJECTIVES**

The objective of this Project is to find a suitable private partner to work with the Town to design, deploy, commission, and operate a buried, lit, open-access FTTP network that will initially enable up to 10 Gb/s symmetric connections to every residential, commercial, and industrial premise within the Town. An initial ‘anchor’ ISP is required to ensure services delivery. All network and services operations must adhere to the Canadian Radio-television and Telecommunications Commission (CRTC) regulatory requirements.

The successful proponent of this RFP will enter into a partnership arrangement with the Town of Vermilion.



#### 4. CLOSING DATE

Proponents are invited to submit a detailed Proposal to Partner. Proponents shall submit one copy of their Proposal, clearly marked “Request for Proposal for Design and Build High-speed Fibre Optic Network”.

Proposals will be received at Reception up to **2:00:00 p.m. (Alberta Time) on March 30, 2021 (the “Closing Date”)**.

Proposals shall be submitted to:

Town of Vermilion  
5021-49 Avenue  
Vermilion, AB T9X 1X1

Proposals may be delivered by courier, mail or emailed. No faxed Proposals will be accepted by the Town. Late submissions will not be considered.

All Proposals will be date and time stamped upon receipt. In the case of a date and/or time dispute the Town’s Reception clock will govern. Late submissions will **NOT** be considered. The Town is not responsible for the timeliness of documents delivered or delivered to a location other than the specified address.

#### 5. RFP SCHEDULE

Issue Date of RFP	March 16, 2021
Deadline for Questions	March 19, 2021 at 3:00 PM local time
Deadline for Issuing Addenda	March 23, 2021
Submission Deadline	March 30, 2021 at 2:00:00 PM local time
Rectification Period	Two (2) business days
Anticipated Selection of Proponent	April 7, 2021

The RFP timetable is tentative only and may be changed by the Town at any time. For greater clarity, business days means all days that the Town office is open for business.

#### 6. DEFINITIONS

For the purposes of this RFP, the terms below shall be interpreted as follows:

- a. “Business Day” means a day other than a Saturday, Sunday, or statutory holiday in Alberta;
- b. “Town” means the Town of Vermilion, a municipal corporation duly constituted under the laws of Alberta;
- c. “Closing Date” means March 30, 2021 or such other date as determined by the Town, at its sole and unfettered discretion;
- d. “Closing Time” means 2:00:00 p.m. (Alberta Time) on the Closing Date;
- e. “Contract” means the written agreement negotiated and entered into by the Successful Proponent and the Town to provide the Services contemplated by this RFP;
- f. “Committee Members” means representatives of the Town and third-party consultants as the Town deems necessary, who are responsible for evaluating the Proposals and recommending Qualified Proponents, if any, to the Town;
- g. “Evaluation Criteria” means those criteria described in Part III, Section 2;
- h. “Invitation to Negotiate” means the last and final phase of the selection process where representatives of the Town and a Qualified Proponent negotiate the Contract;
- i. “Mandatory Requirements” means the minimum requirements that must be addressed or contained in a Proposal as described in this RFP;



- j. “Proponent” means an individual, a corporation, a partnership, or any combination of the foregoing, assembled for a common purpose that submits a Proposal to the Town for evaluation in response to this RFP;
- k. “Proposal” means all the information which is presented to the Town by a Proponent for evaluation in response to this RFP;
- l. “Qualified Proponent” means a Proponent selected to participate in the Invitation to Negotiate at the sole and unfettered discretion of the Town;
- m. “RFP” means this Request for Proposal for a partnership to deploy and operate an open-access broadband utility network in the Town of Vermilion;
- n. “Services” means the functions, duties, components, responsibilities, and deliverables upon which this RFP is based; and
- o. “Successful Proponent” means the Proponent which the Town selects to enter into negotiations with.

Headings are used for convenience only, and they do not affect the meaning or interpretation of the clauses. Words in the singular include the plural and vice versa.



## PART II. PROJECT REQUIREMENTS

### 1. NETWORK BACKGROUND

The Town is requesting proposals from proponents to design, build, install, potentially own, operate, and manage a complete turnkey high-speed communications network that will provide next-generation Internet access service to businesses, homes, and community institutions within the Town's boundary. A baseline of 1 Gb/s symmetric service will serve as the definition of "next-generation service" for this RFP.

The Town will provide a variety of forms of support, including but not limited to:

- streamlined access to infrastructure, rights-of-way, and inspections;
- assistance in demand aggregation;
- marketing assistance; and
- revisions of local rules, regulations, or requirements to decrease the cost to deploy or operate the network.

The successful proponent will operate the open-access network on a wholesale basis. By "open-access network", the Town means that the network facilitates competition through reasonable and non-discriminatory access arrangements that:

- ensure equivalence of price and non-price terms and conditions for all retail service providers; and
- permit such providers to differentiate their product offerings.

In addition, the proponent must not limit the ability of retail service providers or their customers to run applications, use services, and connect devices of their choice to the network.

The proponent should demonstrate a clear upgrade path for the network to meet future consumer demand and service developments to at least 2030 and preferably beyond.

The proponent will bear responsibility for the network, including but not limited to its design, engineering, construction, and equipment, as well as insurance for the network, up to and including end-user drop point and ONU. In addition, the proponent will bear all the operating and maintenance costs for the network.

### 2. PROJECT OVERVIEW

#### 2.1 Overview

The proponent will be responsible for the deployment and operation of a high-speed fibre network for the citizens and businesses in the Town. Our vision is to provide 100% FTTP coverage throughout the Town.

The objectives are to establish a network that:

- can support retail broadband services with a guaranteed sustained minimum 1 Gbps dedicated symmetrical transmission speed over each connection provided to premises;
- can support high-quality voice, data, and video services;
- is rolled out and made operational progressively, on a demand-driven basis, over two-years from the date of execution of a partnership agreement between the Town and the proponent using fibre-to-the-premises network architecture;
- enables low wholesale access prices that reflect underlying costs while allowing the proponent to earn a rate of return on its investment commensurate with the risks involved;
- facilitates opportunities for small and medium-sized enterprises (SMEs) and local enterprises to provide services to the community;
- allows larger enterprises to access next-generation service functionality as it becomes



- available; and
- provides an ownership share in the utility (investment model to be negotiated) subject to the negotiated terms.

## **2.2 Assets, Facilities, Services to Be Contributed by the Town**

The Town will provide the proponent with access to the Town assets, services, and infrastructure to the extent they are available and are needed for deployment of the network. Infrastructure may include, but will not be limited to conduit, poles, rack space, nodes, buildings, facilities, central office or switch locations, available land, and other assets.

The Town will use its best efforts to make such assets, services, and facilities available to the proponent upon request, on commercially reasonable terms.

In certain cases, identified in the appropriate schedule, access to fibre, conduit, rights of way, or other assets identified may be conditioned on or require approval from lessors or other third parties. In such situations, the Town will work with the proponent to attempt to obtain any necessary approvals, but it cannot guarantee their receipt.

## **2.3 Existing Networks**

The Town does not own any fibre or communication conduit assets. The Town is currently operating a pilot wireless network in its south industrial area. This network will be phased out as services from the proposed FTTP network become available.

## **2.4 Rights-of-Way**

The Town will co-operate with the proponent in efforts to allow the proponent to gain access to rights of way owned by the Town or owned or controlled by third parties within the service area, as required.

## **2.5 Space and Power**

Where feasible, the Town will make space available to the proponent in Town facilities for the installation of central office equipment and for additional network facilities, in locations to be determined as part of the network design. In addition, the Town will provide electrical power necessary for the proponent's equipment at Town locations (costs to be negotiated).

## **2.6 Town Contracts for Services and Assistance in Identifying and Generating Institutional and Enterprise Demand**

The Town is willing to negotiate long-term individual commitments to purchase network services needed for Town operations, such as transmission capacity, Internet access, voice, video, security monitoring, cloud computing, and storage, through the network.

The Town will help the proponent identify other entities in the Service Area that are candidates to enter into long-term contracts of two (2) years or more for fibre or network services. Such potential anchor tenants include other educational institutions, large employers, and other enterprises. The proponent will be provided with a list of anchor institutions after contract award.

## **2.7 Other Assets, Facilities, and Services**

The Town will provide the proponent with access to other assets and services that are owned or controlled by the Town and that will help the proponent lower the overall risk by reducing the cost structure and shortening the design and construction schedule. These include no-cost access to GIS data.



## **2.8 Financial Contribution**

The Town contribution will be based on the successful acquisition of provincial and federal funds.

## **2.9 Regulatory and Other Forms of Assistance to Be Provided by the Town**

The Town will provide the proponent with access to a single point of contact (“SPOC”). The SPOC will be responsible for addressing all issues related to the Town’s participation in the project.

## **2.10 Expedited Permitting**

The Town will co-operate with the proponent in efforts to allow the proponent expedited permits for assets owned by the Town or owned or controlled by third parties within the Service Area, as required.

## **2.11 Expedited Inspection**

The Town will provide the proponent with a dedicated inspection team for inspection of all work performed on the network.

## **2.12 Other**

The Town will provide the proponent with information about existing funds, grants, and contracts that can be redirected to this project. The Town will also apply for or help the proponent apply for available grants or loans to defray network expenses, such as those for local economic development.

## **2.13 Relationship between Proponent and the Town**

The proponent will be an independent contractor that provides all design, construction, and operation services for the network.

## **2.14 Ownership of Network**

The network will likely be structured as a public-private partnership that combines both public and private resources and expertise and has a hybrid ownership structure.

The Town will have an investment stake in the entity that owns and operates the network. The form and percentage of ownership will be subject to negotiation.

# **3. SCOPE OF SERVICES**

## **3.1 Description of Services Sought**

The Town seeks a proponent to design, build, install, potentially own, operate, and manage a complete turnkey high-speed communications network within the Town. The network shall be a fully operational high-speed communications network using Internet protocol technology and allowing users access to and from the Internet and access to other services as required. This RFP requires that a buried, lit FTTP network is to be operated on an open-access basis and will enable GPON, XGS-PON and/or NG-PON2 connections to every public, residential, commercial, and industrial premise within the Town. This system must include all active and passive infrastructure, including conduit and fibre cabling, distribution frames, opto-electronics, uninterruptible power supplies, and all other related items required to enable a fully functional utility broadband network over which independent ISPs can provide retail, triple-play services.

Services rendered must include complete system design, engineering, operation, monitoring, maintenance, and enhancement, as well as negotiation and execution of at least one access agreements with an initial retail triple-play service provider. The core network rollout to pass every premise will be completed within 2 years of the partnership agreement being executed. Access connections will be



deployed as services are ordered. The network design and operation must provide an open-access framework that enables wholesale service delivery and competition.

### **3.2 Scope of Work**

The proponent shall design, build, install, potentially own, operate, and manage the network. The network shall have the following features and functionality.

### **3.3 Network Requirements**

The proponent's network will include network characteristics for minimum capacity (in terms of number of fibres and/or bandwidth capacity) for:

- the backbone or area ring;
- residential users;
- enterprises/institutional users;
- government institutions/public safety users;
- Internet of things related devices and sensors;
- a wi-fi overlay; and
- other relevant verticals.

### **3.4 Services on Wholesale Open Network**

The proponent's wholesale open network will include:

- the development and implementation of open-access structure for wholesale services delivery and competition;
- wholesale billing and settlement services;
- wholesale Internet access service;
- physical and logical layer network service access;
- dedicated wave/virtual LAN ("VLAN") services; and
- secure Internet protocol ("IP") intranet services.

### **3.5 A Retail Internet Services Provider**

The successful proponent will contract for at least one initial ISP which will provide a full retail triple-play residential and commercial services to Town residents and businesses.

## **4. METHODOLOGY OF SERVICES**

### **4.1 Schedule and Timeline**

Proponents will provide an estimated partnership, design, procurement, construction, commissioning, and service availability schedule for review with the proposal. The development and updating of the Project schedule shall be carried out by the Proponent from inception to the commencement of operations. The Proponent shall report to the Town during the performance of the Services. It is anticipated that Project Status meetings will be held every 2 weeks to review progress. The Town will require the Proponent to work with the Town and its consultants.

### **4.2 Form of Agreement**

The Proponent shall enter into a partnership agreement between the Town and Proponent, yet to be developed, to complete the scope of work outlined within this RFP. The Proponent shall perform the work within the terms agreed to.

The Proposal will form a part of the Agreement and the conditions of this Request for Proposal will be carried forward into the Agreement. Upon execution of the Agreement between the Town and the



Proponent, the signed Agreement shall supersede all other documents, including this Request for Proposal document.

The Town, at its sole discretion, may conclude the contract upon completion of each of the design phases. The Proponent will receive payment for services performed and approved by the Town up to that phase. The Town's commitment would end without additional penalty or fee.

The Proponent shall not sub-contract any portion of the Services to other Project Management Firms or other General Contractors without the prior approval of the Town. Notwithstanding, this action would only be approved under exceptional circumstances and not for the majority of the Work.



## PART III. PROPOSALS

### 1. MANDATORY SUBMISSION REQUIREMENTS

In responding to this RFP, Proponents shall submit six copies of their Proposal in a sealed envelope or package marked “Request for Proposal for Design and Build High-speed Fibre Optic Network”. The Town requires that Proponents submit a Proposal as follows.

The cover page must clearly identify the following:

- The title of this RFP;
- The Proponent’s company name, contact name and mailing address; and
- The date of submission.

Proposals shall be divided into sections identified as follows:

- Executive Summary;
- Organizational and Project Team Experience and Qualifications
- Proponent/Project Team References;
- Proposal Narrative;
- Fees and Partnership Proposal; and
- Other Pertinent Information.

All Proposals shall be submitted in the English language.

Where requested, provide samples, drawings or references that will be used for clarification and confirmation of services being offered.

Proposals must include all relevant pricing on all items that are the responsibility of the Successful Proponent.

Proposals may be delivered by courier, mail or emailed. No faxed Proposals will be accepted by the Town.

Proposals will be opened following the Closing Time. Proposals submitted after the Closing Time will not be considered. Proposals will not be opened in public.

Only one Proposal may be submitted by each Proponent.

Proposals must include all required information.

Proponents must fully disclose, in writing to the Town on or before the Closing Date of this RFP, the circumstances of any possible conflict of interest or what could be perceived as a possible conflict of interest if the Proponent were to become a contracting party pursuant to this RFP. The Town shall review any submissions by Proponents under this provision and may reject any Proposals where, in the opinion of the Town, the Proponent could be in a conflict of interest or could be perceived to be in a possible conflict of interest position if the Proponent were to become a contracting party pursuant to this RFP.

#### 1.1 Executive Summary

This chapter should include each of the following items and be no more than two pages in length:

- A brief description of the Partnership and Services proposed;
- A brief outline of the unique advantages of the proposed solution;
- The name, title, and address of the Proponent’s representative responsible for the preparation of the Proponent’s Proposal;
- The printed name, signature, title, and mailing address of the Proponent’s representative



- empowered to conduct contract finalization on behalf of the Proponent; and
- A list of assumptions that affect the price, level of service/product or duration of the work.

## **1.2 Organizational and Project Team Experience and Qualifications**

The Proponent must indicate the Proponent's/project team's qualifications and capabilities to provide the Services, including past projects having similar requirements to the one being proposed. Include resumes, summarizing the qualifications of the Proponent/project team members, including any subcontractors (if applicable). Specify how these staff will be organized and supervised on the project.

## **1.3 Proponent/Project Team References**

The Proponent must provide a minimum of three references from customers who have contracted with the Proponent for similar services in the past 5 years. At least one reference from a publicly operated organization is desirable. Proponents are requested NOT to provide references from the Town of Vermilion.

Each reference should include the following information:

- The reference company's name, address, and telephone number;
- The name and title of a person who may be contacted at the reference company; and
- The title, date, description, and relevancy of the work performed.

The Town reserves the right to contact these references, or any other references known to the Town, without prior notification to the Proponent. The Town also reserves the right to contact any previous or current user of the Proponent's products or services, including the Town's own personnel.

## **1.4 Proposal Narrative**

In this chapter of the Proposal, the Proponent must demonstrate an understanding of the key requirements of the project and outline the approach taken to completing all aspects of the Services. All assumptions made in preparing the Proposal should be identified clearly. These assumptions will be vetted by the Committee Members and clarification may be required, as necessary. This chapter gives the Proponent the opportunity to address the key items listed in the evaluation criteria and to describe in detail the unique advantages of the Proponent's proposed solution that illustrates the "added value" that the Proponent has to offer. Be sure to address all of the requirements and specifications contained in the RFP.

## **1.5 Fee /Funding/Partnership Proposal**

The Proponent shall provide a fee/funding and proposed partnership proposal at this time. Pricing shall include all costs for design, construction, overheads and profit, general conditions, third party testing and all applicable permit fees. Proponent should include a detailed breakdown of the Proposal pricing and proposed funding arrangements. Proponent is to provide any terms and conditions regarding payment/fee proposal.

Pricing shall include all fees, purchases, commissions, out-sourced services, charges, and duties pertaining to the delivery of goods and services quoted in this RFP.

All prices shall be quoted in Canadian dollars with GST identified separately.

## **1.6 Other Pertinent Information**

The Proponent should provide any other pertinent information it deems necessary.



## 2. EVALUATION CRITERIA

As a general framework, all Proposals presented by Proponents will be evaluated in the context of the overall value they bring to the Town. As outlined below, the criteria to be considered by the Town will include a combination of expertise, qualifications, fees, and such other criteria as determined by the Town at its sole and unfettered discretion (the "Evaluation Criteria").

The Committee Members will utilize specific evaluation criteria to rate various requirements for evaluation purposes. Subject to the requirements of FOIPP, such ratings shall be confidential, and no totals or scores of such ratings shall be released to any party.

As the Town evaluates Proposals and will base any decision to enter into partnership discussions with a single proponent on the contents of the Proposals as submitted, each Proposal shall include any and all information required as called for in the RFP. It shall be explicitly understood that there shall be no opportunity to make any material change to the Proposal, including any alteration, addition, or deletion of any element within the Proposal as submitted by the Proponent after the RFP has closed.

The following sections set out the categories, weightings, and descriptions of the rated criteria for the RFP:

<b>Rated Criteria Category</b>	<b>Weighting</b>	<b>Minimum Threshold</b>
Organizational and Project Team Experience	10 points	
Technology	15 points	
Service Offerings	15 points	
Roles and Responsibilities	10 points	
Financial Projections	15 points	
Project Tasks and Components	15 points	
Rollout Strategy	20 points	
<b>Total Points</b>	<b>100 points</b>	<b>60 points out of 100</b>

Each proponent should submit a business and technical plan describing its approach to the project described in this RFP. The business plan shall describe the proponent's approach to design, construction, operation, and management of the network and the services to be provided over the network in sufficient detail to allow the Town to effectively consider the proposal. The proponent should also include a description of the day-to-day operations and the management of all responsibilities related to the project and explain how the proponent will provide the Deliverables. This should include, at a minimum, the following:

### 2.1 Organization and Project Team Experience – 10 points

Each proponent should provide the following in its proposal:

- a description of previous experience in designing, building, installing, owning, operating, and managing a utility-based infrastructure (3 points);
- a description of industry experience with broadband and telecommunications infrastructure design, operation, and management (3 points); and
- a description of the qualifications and roles and responsibilities, areas of expertise, and anticipated role on the project, as well as a resumé, for each key team member (4 points).

### 2.2 Technology – 15 points

Each proponent should include in its proposal a description of the network technologies underlying the proposed network solution(s) included in the response. Each description should include the following information:

- technologies proposed and the limitations of each technology, and if a variety of technologies



- are contemplated, a discussion of the factors likely to influence the choice of technologies (4 points);
- as much detail as possible regarding the network design, including but not limited to (1 point each for a total of 7 points):
  - network design criteria;
  - network elements;
  - architecture;
  - protocols;
  - system reliability;
  - availability; and
  - operations and maintenance; and
- network performance characteristics, including the range of offerings, the capacity, and other factors relevant for each proposed solution (4 points)

### 2.3 Service Offerings – 15 points

Each proponent should include in its proposal a description of the proposed wholesale offerings that the proponent anticipates offering to Internet service providers (“ISPs”) interested in operating in the Service Area, including:

- broadband service offerings:
  - type of broadband service (2 points);
  - speed tiers (2 points); and
  - differences between business and residential offerings (2 points);
- pricing strategy (5 points); and
- explanation of proponent’s willingness to work with the Town to develop unique pricing or packages for key community stakeholders and populations (e.g., government, university facilities, K–12 facilities, and economically distressed areas) (4 points).

### 2.4 Roles and Responsibilities – 10 points

Each proponent should include in its proposal a description of the roles and responsibilities envisioned for the proponent, proponent’s team members (if any), the Town, and third parties (if applicable) for each of the following (2.5 points each for a total of 10 points):

- network design;
- network construction;
- network operations and management; and
- community outreach and customer acquisition.

### 2.5 Financial Projections – 15 points

Each proponent should include in its proposal a pro forma financial statement, identifying:

- projected capital outlays (5 points);
- ongoing operational costs (5 points); and
- expected revenues from wholesale services for at least the first five (5) years of construction and operation (5 points).

The plan should identify and quantify all key assumptions underlying the calculations. Plans should include projections for the capital costs to deploy the solution throughout the Town. Proponents are welcome to leverage the material.

### 2.6 Project Tasks and Components – 15 points

Each proponent should include the following in its proposal:

- an overview of the approach to be used to complete the project and meet the project schedule (3 points);
- a detailed business and technical work plan indicating the proposed method (4 points);



- a schedule of key milestones, tasks, and specific materials and products to be used to construct the docks and other related project works. Proponents should include a Gantt chart or similar type of schedule in their response (4 points);
- key project challenges and a strategy for addressing the challenges (4 points).

Proponents should clearly note any assumptions and interpretations, in their response to the above criteria, in the proposal.

**2.7 Rollout Strategy – 20 points**

Each proponent should include the following in its proposal a description of the anticipated deployment strategy, scope, and timing of the proposed rollout. The description should identify:

- the levels of committed demand necessary to trigger rollout obligations (10 points); and
- any factors likely to influence the scope or timing of the rollout and explain how those factors impact the strategy (10 points).

By submitting a Proposal, the Proponent acknowledges and agrees that:

- a. The Town has, and is hereby entitled to exercise, the sole and unfettered discretion to award the points for the evaluation of the Evaluation Criteria; and
- b. It waives any right to contest in any legal proceedings or otherwise the decision of the Town to award points in respect of the Evaluation Criteria.

**3. SELECTION PROCESS**

**3.1 Process Overview**

The Successful Proponent will be selected through the following process:

- Stage One – Request for Proposal;
- Stage Two – Evaluation and Interview (optional – short-list only);
- Stage Three – Invitation to Negotiate (one or (if necessary) more Qualified Proponents); and
- Stage Four – Partnership Agreement.

**3.2 Stage One – Request for Proposal**

An RFP will be issued by the Town to potential Proponents as determined by the Town in its sole and unfettered discretion;

Any questions raised by potential Proponents during this stage shall be submitted in writing and must be received by the Town no later than 7 business days prior to the Closing Date. Without disclosing the name of the Proponent, a copy of all questions received, and answers provided by the Town shall be posted to APC no later than 5 business days prior to the Closing Date;

Deadline for submission of Questions/Clarifications:	March 19, 2021
Responses to Questions/Clarifications posted to APC:	March 23, 2021

The Proponent has the responsibility to notify the Town, in writing, of any ambiguity, divergence, error, omission, oversight, contradiction, or item subject to more than one interpretation in this RFP, as it is discovered, and to request any instruction, decision, or direction required to prepare the Proposal;

Verbal responses to any inquiry are not binding on either party; and

Following the Closing Date, the Committee Members will review the Proposals which have not been rejected and will determine the overall scores and ratings of the Proponents. At this stage, Proponents may be formally asked by the Committee Members for clarifications. A written response will be



required, and the time frame for response will be minimal. The intent of the clarification is to obtain further explanation and understanding of what was intended by the Proponent. A clarification does not provide an opportunity to make any material change to the Proposal, or to alter, add or delete any element of the proposal including the Proposal price contained within the Proposal.

### **3.3 Stage Two – Evaluation & Interview**

Following the initial review, and clarifications, if any, the Town may, in its sole and unfettered discretion interview any one, or more of the Proponents that have submitted a Proposal in response to this RFP; and

By submitting a Proposal, each Proponent acknowledges and agrees that the holding of an interview shall not constitute an express or implied representation, warranty or undertaking on the part of the Town as it relates to the content of the Proposal submitted by the Proponent, and the Town expressly rejects any express or implied representation, warranty or undertaking which may arise as a result of the Proponent submitting a Proposal in response to this RFP.

### **3.4 Stage Three – Invitation to Negotiate**

After Stage One and Two have concluded, the Committee Members may select the Qualified Proponent with the most attractive Proposal to participate in the Invitation to Negotiate ("ITN");

During the ITN stage, the Town will engage in bilateral negotiations with the Qualified Proponent selected to participate in the ITN. At the conclusion of these negotiations, the Town, in its sole and unfettered discretion, may select the Successful Proponent based on the terms agreed to as a result of their negotiations;

Should the bilateral negotiations with the above mentioned Qualified Proponent does not result in a partnership agreement, the Town reserves the right to contact the Qualified Proponent with the next most attractive Proposal to participate in the ITN as set out above;

The Proposals received shall remain open for acceptance for a period of 90 days following the Closing Date in order to allow the Town of Vermilion to undertake the evaluation of the Proposals received, to conduct the interviews noted above, and to enter into the ITN;

However, as stated previously, until a Partnership agreement is actually executed, the Town reserves the right to terminate negotiations, cancel the project, and proceed with the project on different terms, all without compensation to the Proponents; and

The Town of Vermilion reserves the right to determine the location, date and times of all meetings related to the negotiation of the Contract.

### **3.5 Stage Four – Partnership Agreement**

The RFP will conclude with the signing of a Partnership agreement between the successful proponent and the Town.



## **PART VI. RFP REGULATIONS**

### **1. TERMS AND CONDITIONS**

#### **1.1 Reservation of Rights**

The fee will be only one of the determinants for acceptance of a Proposal by the Town. The fee proposal will not necessarily be accepted, and the Town reserves the right to reject any or all Proposals at its sole and unfettered discretion.

The Town also reserves the right to accept conditions to be offered by and/or negotiated with the Successful Proponent which are not specifically contained in this RFP. Such options and/or alternatives shall be included in the Proposal review process as part of the evaluation but shall not be used to revise the Fee.

At all times, the Town reserves the right to seek written clarifications of a Proponent. Such clarification shall be deemed an amendment to such Proponent's Proposal and be binding upon the Proponents.

#### **1.2 Disclaimer of Liability and Indemnity**

The Town, its directors, officers, servants, employees, agents, and consultants expressly disclaim any and all liability for representations, warranties (express or implied), errors or omissions in the RFP package or in any written or oral information transmitted or made available at any time to a Proponent or on behalf of the Town.

By submitting a Proposal, a Proponent agrees to be responsible for conducting its own due diligence on data and information upon which its Proposal is based;

- a. That it has fully satisfied itself as to its rights and the nature extended to the risks it will be assuming;
- b. That it has gathered all information necessary to perform all of its obligations under its Proposal;
- c. That it is solely responsible for ensuring that it has all information necessary to prepare its Proposal and for independently verifying and informing itself with respect to any terms or conditions that may affect its Proposal;
- d. To hold harmless the Town, its elected officials, officers, employees, insurers, agents, or advisors and all of their respective successors and assigns, from all claims, liability and costs related to all aspects of the RFP process;
- e. That it shall not be entitled to claim against the Town, its elected officials, officers, employees, insurers, agents, or advisors on grounds that any information, whether obtained from the Town or otherwise (including information made available by its elected officials, officers, employees, agents, or advisors, regardless of the manner or form in which the information is provided) is incorrect or insufficient;
- f. That the Town will not be responsible for any costs, expenses, losses, damages, or liability incurred by the Proponent as a result of or arising out of submitting a Proposal or due to the Town's acceptance or non-acceptance of its Proposal; and
- g. To waive any right to contest in any proceeding, case, action or application, the right of the Town to negotiate with any Proponent for the Contract whomever the Town deems, in its sole and unfettered discretion, to have submitted the Proposal most beneficial to the Town.

The Successful Proponent shall release, indemnify and hold harmless the Town and its elected and appointed officers, servants, agents, employees, or contractors, from and against any and all losses, claims, demands, payments, suits, actions, damages, judgments and expenses (including solicitor's fees), of every nature and description brought or recovered against or incurred by the Town and its elected and appointed officers, servants, agents and employees, arising out of or related to the



Successful Proponent's breach of the Contract, or by reason of any act or omission or alleged act of omission of the Successful Proponent, its agents, employees or contractors in the performance of the Contract, or arising from the exercise of any rights or remedies of the Town.

### **1.3 No Tender and No Contractual Relationship**

This selection process is not a tendering process. It is part of an overall selection process intended to enable the Town to identify a potential Successful Proponent. The submission of a Proposal does not constitute a legally binding agreement between the Town and any Proponent. For greater certainty, by submission of its Proposal, the Proponent acknowledges and agrees that there will be no initiation of contractual obligations or the creation of contractual obligations as between the Town and the Proponent arising from this RFP or the submission of a Proposal.

Further, the Proponent acknowledges and agrees that this procurement model is not a tender but a Request for Proposal. A Proposal may be rescinded by a Proponent at any time prior to the execution of the Contract.

### **1.4 Discretion of Town**

Notwithstanding any other provision of this RFP to the contrary, the provisions in this Part VI, Section 1.4 prevail, govern, and override all other parts of this RFP. The Town is not bound to accept any Proposal. At any time prior to execution of the Contract, the Town may, in its sole and unfettered discretion, or for its own convenience, terminate the selection process, cancel the Project, and proceed with the Project on different terms. All of this may be done with no compensation.

The Town reserves the right to accept or reject any and all Proposals, all without giving reasons, not necessarily accept the lowest priced Proposal, and not accept any Proposal. The Town reserves the right to determine, in its sole and unfettered discretion, whether any Proposal meets the Mandatory Requirements. Selection of the Successful Proponent, if any, is at the sole and unfettered discretion of Town of Vermilion.

The Town is not bound to negotiate with any Proponent.

The Town is not bound to grant an interview to any Proponent.

The Town reserves the right, at its sole and unfettered discretion, to:

- a. Negotiate the specific contractual terms and conditions, including but not limited to the Fee;
- b. Waive any formality, informality, or technicality in any Proposal, whether of a minor and inconsequential nature, or whether of a substantial or material nature;
- c. Negotiate with any or all Proponents; and
- d. Receive, consider, negotiate and/or accept any Proposal, regardless of whether it complies (either in a material or non-material manner) with the Mandatory Requirements or not.

### **1.5 Representations and Warranties**

The Town makes no representations or warranties other than those expressly contained herein as to the accuracy and/or completeness of the information provided in this RFP. Information referenced in this RFP, or otherwise made available by the Town or any of its elected officials, officers, employees, agents, or advisors as part of the selection process, is provided for the convenience of the Proponent only.

The Proponent is required to immediately bring forth to the Town any conflict or error that it may find in the RFP.

Proponents are hereby required to satisfy themselves as the accuracy and/or completeness of the information provided in this RFP.



### **1.6 Information Disclosure and Confidentiality**

All documents submitted to the Town will be subject to the protection and disclosure provisions of the Freedom of Information and Protection of Privacy Act ("FOIPP"). FOIPP allows persons a right of access to records in the Town's custody or control. It also prohibits the Town from disclosing the Proponent's personal or business information where disclosure would be harmful to the Proponent's business interests or would be an unreasonable invasion of personal privacy as defined in sections 16 and 17 of FOIPP. Proponents are encouraged to identify what portions of their submissions are confidential and what harm could reasonably be expected from its disclosure. However, the Town cannot assure Proponents that any portion of the Proponent's documents can be kept confidential under FOIPP.

### **1.7 Independent Determination**

A Proposal will not be considered by the Town if it was not arrived at independently without collusion, consultation, communication, or agreement as to any matter, such as prices, with any other Proponent.

### **1.8 Disqualification**

The failure to comply with any aspect of this RFP (either in a material way or otherwise), including, but not limited to, the instructions to Proponent, shall render the Proponent subject to such actions as may be determined by the Town, including disqualification from the selection process, suspension from the selection process and imposition of conditions which must be complied with before the Proponent will have its privilege of submitting a Proposal reinstated.

### **1.9 Notices and Inquiries**

Inquiries or other notices or communication required or permitted to be given hereunder shall be deemed to have been well and sufficiently given if delivered, mailed by prepaid registered mail, or e-mailed, all as the case may be, to the address of the party to whom it is intended as hereinafter indicated to:

- a. Town of Vermilion, 5021-49 Avenue, Vermilion, AB T9X 1X1, Attention: Mary Lee Prior, Manager of Economic Development. E-mail: [economic@vermilion.ca](mailto:economic@vermilion.ca), Tel: 780-581-2419.
- b. To the Proponent, at the address or e-mail address of the Proponent given in the Proposal.
- c. Or to such other address or e-mail address as a party may from time to time direct in writing.

Any notice delivered before 4:30 p.m., local time, on a Business Day, shall be deemed to have been received on the day of delivery and any notice delivered after 4:30 p.m., local time, on a Business Day or delivered on a day other than a Business Day, shall be deemed to have been received on the next Business Day. Any notice mailed shall be deemed to have been received 3 days after the date it is postmarked. Any notice sent by e-mail before 4:30 p.m., local time, on a Business Day, shall be deemed to have been received on the date of sending the notice, provided however, that any notice sent by e-mail after 4:30 p.m., local time, on a Business Day, or sent on a day other than a Business Day, as the case may be, shall be deemed to have been received on the next Business Day. In the event normal mail service is impaired at the time of sending the notice, then sending the notice by delivery or e-mail must be utilized.

### **1.10 Law and Forum of Proposal**

The law to be applied in respect of this RFP shall be the law of the Province of Alberta and all civil actions commenced in relation to this RFP shall be adjudicated by the Courts of the Province of Alberta and by submitting a Proposal, the Proponent is taken to have agreed to attorn to the jurisdiction of the Courts of the said Province.

