

Request for Proposal:
Commercial Real Estate Service Provider

Reference Number: 2205-001

Issued: May 4, 2022

Responses Due: May 20, 2022

Calgary Economic Development Ltd.

500 Centre St S, 32nd Floor

Calgary, AB

T2G 2A6

Phone: (403) 221-7831 or 1-888-222-5855

Confidential

Real Estate Services Firm

Calgary, Alberta

Attention: *To Whom it May Concern*

**REQUEST FOR PROPOSAL (“RFP”)
For the Provision of
Commercial Real Estate Service Provider**

Confidentiality

This RFP is both confidential and proprietary to Calgary Economic Development Ltd. (“CED”) and shall not be used for any purposes other than responding to this RFP. You shall not disclose the contents of this document without the prior written consent of CED. Notwithstanding the foregoing, you may make this document available to those who have a need to know its contents in order to prepare your response.

You shall not include or refer to this RFP in any forum without the prior written consent of CED.

All proposals received in response to this RFP become the property of CED.

Opportunity

CED would like to retain a Commercial Real Estate Service Provider (or “Vendor”) who can provide both transaction management for CED’s Calgary office, and provide market intelligence and guidance for future expansion/contraction assignments. Our Commercial Real Estate Service Provider will meet the following objectives:

1. Provide strategic transaction management, planning and negotiation for lease renewal and if required, new space acquisition, as the specific assignment requires.
2. If applicable, please also provide information about your Project/Construction Management capabilities.

CED is using this Request for Proposal (RFP) process to identify the most appropriate Real Estate Service Provider. One who meets required service levels, has market expertise and a proven track record.

CED Information/Background

Calgary Economic Development is a conduit, connector, catalyst, and storyteller for the city of Calgary. Promoting Calgary as the location of choice for people, investment and business, our work is rooted in positioning Calgary for long-term economic success and shared prosperity for all. We deliver services and initiatives focused on growing and developing across our key sectors. The CED office is currently comprised of approximately 65 staff.

Current Premises

CED is currently located on the 32nd floor in the Bow Tower. The mailing address is:

32nd Floor, 500 Centre Street SE

Calgary, AB

T2G 1A6

CED's office occupy a total of approximately 34,000 square feet on the 32nd floor of the Bow Tower. CED's premises have been developed as high quality, professional office space and include a variety of boardrooms, meeting and conference facilities, offices, and common areas. The predominate build-out of the office space is office intensive which, based on recent trends and work from home options is not necessarily the preferred layout for CED going forward. CED envisions a mixed floor plan with some fixed offices, some permanent desk space whether in offices or 'bull-pen', and some hotelling for those in the office less frequently with access to sufficient Board/meeting room space.

CED's current lease expires on May 30, 2023 and there is no formal option to renew or extend the lease term, no first rights of refusal or first offer and no options for expansion or contraction.

CED qualifies for the City of Calgary tax exemption.

Location Considerations

CED will work with the selected vendor to finalize these considerations, however, in broad terms, the following factors (among others) will have a bearing in the consideration of strategic alternatives:

- Downtown
- Cost (including rent, operating costs, build out and relocation expenses, if any)
- Ease of Access for CED employees
- Proximity to City Hall

- Building Amenities
- Plus 15 Connectivity
- Building Quality (Life Support, 24-hour security & access, air handling + quality, elevators, construction, energy efficiency, internal construction standards, etc.)

Selection Process

Proposals received in accordance with the terms of this RFP will be reviewed and evaluated by an internal selection committee. Based on the recommendations of the selection committee, a maximum of three Service Provider candidate firms will be invited to make a presentation to the selection committee (dates and times to be announced by the committee following the completion of the internal reviews). Service Provider candidate firms will be notified by May 25, 2022 whether they have been selected to make a presentation to the selection committee.

A final determination will be made by CED's management with the advice of the selection committee, and the selection communicated to the finalists within two weeks of the last presentation.

CED is under no obligation to include any organization in this selection process or explain our rationale for any decisions made.

This RFP does not commit CED to any specific course of action.

Selection Criteria

The selection for a Service Provider will be based on the following areas of review. This is intended to be an overview of the qualities that we will review during selection. CED reserves the right to accept or reject any or all responses at its complete and sole discretion, without providing reasons, and to negotiate the terms of any subsequent agreements. Selection criteria will be scored as shown in Appendix A.

- General understanding of CED's requirements and facilities
- Service Provider history, philosophy, experience and values.
- Caliber of Account Executive and proposed team members, experience, and structure
- Past performance with similar requirements as CED's
- References
- Firm's demonstration of their commitment to equality, diversity, and inclusion

In your firm's response to this RFP you must be able to demonstrate that you can meet or exceed the above listed criteria. CED does not represent that these are the sole evaluation criteria, and reserves the right to adjust the criteria at its discretion.

Terms and Conditions

Any and all costs associated with the preparation and submission of a proposal shall be borne solely by the Service Provider candidate.

By submitting a proposal in response to this RFP, Service Provider candidates expressly agree to all of the provisions of this RFP.

By submitting a Proposal a Vendor acknowledges it agrees that the terms and conditions of this RFP are incorporated by reference into its Proposal. If a Vendor's Proposal is accepted by CED, the Vendor will be expected to execute CED's standard contractor agreement (Appendix B). Vendors who are unwilling to abide by these standard terms and conditions should not submit a Proposal.

Conflict of Interest

Vendors must fully disclose, in writing, to the contracting manager 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 Vendor contracted with CED under this RFP. CED may reject any Proposal where, in the opinion of CED, the Vendor is or could be perceived to be in a conflict of interest.

Services Required

Without limiting the general nature of the assignment, CED anticipates that the services required will include, as a minimum:

- Review and assess current and future premises requirements of CED, and assist CED to develop a Strategic Facilities Plan
- Advice on current and anticipated market conditions
- Identify and evaluate (including a cost/benefit and risk analysis) strategic market opportunities available to CED, including (but not necessarily limited to), negotiating a new tenancy arrangement in the current premises or relocating to alternative existing premises.
- Recommend a preferred option to CED, together with an action plan (including major steps, responsibilities, costs and timelines)
- Negotiation of contract terms and lease review, liaison with legal and other advisors, due diligence with appropriate financial analysis.
- Building location due diligence including financial analysis and recommendations to CED, preparation of Offer to Lease, negotiation with builder owner representatives, review of final lease document, liaison with legal representatives/advisors, advisory role from engagement to

occupation of premises leased.

Service Provider Information

In addition to any other information which Service Provider candidates may view as relevant or helpful to CED in selecting an organization to assist with this assignment, please outline the following in respect of your organization:

- Name of organization
- Owners/Principals
- Proposed team and detailed biographies along with the named Account Executive
- Local/Regional/National/International Affiliations
- Experience of Commercial Real Estate Advisory Firm and team members both generally in real estate and in comparable assignments - with particular emphasis on occupier advisory engagements
- Philosophy and approach to business
- Knowledge and understanding of the Calgary marketplace
- Additional services provided if any
- Expected timeframe to complete various phases of the assignment
- Associated fees and costs
- Exclusive arrangements with Landlords/building owners in last 3 years
- Provide a list of three (3) items that you feel positively differentiate your firm from other organizations
- Identify any conflicts of interest both existing and potential and describe how you will negate these conflicts of interest with other companies with whom you do business

Fees and Payment

Provide full details of any and all fees and payments expected to be received in connection with this assignment, indicating amounts, timing, contingencies and expected sources of payment. Please outline any fees for additional services provided or offered.

Inquiries

Trevor McKay, Controller, tmckay@calgaryeconomicdevelopment.com shall coordinate receipt of all questions from Service Provider candidates and distribution of responses to RFP questions.

The selection committee will review and respond to any RFP questions. To ensure RFP recipients receive all pertinent information, all questions and responses regarding the RFP will be distributed to all participating Service Provider Candidates which have delivered a Confirmation of Intent to Respond by the specified date. Questions will not be attributed to any specific organization. All questions must be submitted in writing to Trevor McKay by e-mail (see contact information provided below).

Timetable

Failure to provide all information requested or failure to submit your response by the date specified below may result in the Service Provider Candidate being eliminated from consideration by CED. Key dates in the selection process are as follows:

Dates:	Activity
May 4, 2023	RFP issued by CED to selected Service Provider Candidates
May 11, 2023	Service Provider candidate letter confirming Intent to Respond submitted to CED. (Note that only organizations which have confirmed their Intent to respond to this RFP will receive information in response to any questions submitted.)
May 13, 2022	Questions regarding the RFP submitted by Service Provider Candidates
May 16, 2022	Copies of all RFP questions and responses distributed to all participating organizations by CED.
May 20, 2022	Completed RFP response submitted by Service Provider candidates.
May 25, 2022	Notification of Service Provider candidate status regarding selection for presentation.

Contacts

For further information please direct any inquiries to:

Name: Trevor McKay

Title: Controller

tmckay@calgaryeconomicdevelopment.com

Delivery of Proposals

Proposals must be received not later than 5:00 pm Calgary time on May 20, 2022. Proposals are to be addressed to Trevor McKay and are to be submitted as follows:

- a) one copy to be sent electronically via e-mail; and,
- b) 3 printed copies of the proposal to be delivered by hand, courier or mail to CED's offices.

Disclaimer

This RFP is not an offer by CED to enter into a binding contract or a contract for services, and the submission and receipt of proposals does not obligate CED to accept any of the proposals it receives. Any cost incurred in responding to this RFP are the responsibility of the prospective Service Provider.

Each Service Provider is solely responsible for conducting its own independent research, due diligence, and any other work or investigations and seeking any other independent advice necessary for the preparation of its proposal. Nothing in the RFP is intended to relieve the prospective Service Provider from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

Whilst every effort has been made to ensure the accuracy of the information provided, no guarantee, representation or warranty, express or implied is made and no responsibility of any kind is accepted by CED or its representatives for the completeness or accuracy of any information presented in the RFP. Neither CED nor its representatives shall be liable to any person or entity as a result of the use of any information contained in the RFP Documents provided during the RFP process.

CED may, in its sole discretion, change or discontinue this RFP process at any time whatsoever. CED may in its sole discretion, enter into negotiations with any person, whether or not that person is a respondent to this RFP, with respect to the services that are the subject of this RFP.

Without limiting the generality of the foregoing, CED may, in its sole discretion and at any time during the RFP process:

- a) reject any or all of the proposals;
- b) accept any proposal;
- c) if only one proposal is received, elect to accept or reject it;
- d) elect not to proceed with the RFP;
- e) alter the timetable, the RFP process or any other aspect of this RFP; and/or
- f) cancel this RFP and subsequently advertise or call for new proposals for the subject matter of this RFP.

CED Reservation of Rights and Vendor's License Grant

CED reserves the right:

To not consider, or to reject, any or all proposals in whole or in part for any reason whatsoever in its sole and absolute discretion;

To accept any proposal in whole or in part, even if it does not comply with the terms of this RFP;

To short list vendors, and require a presentation by the vendors short-listed and/or the provision of additional information by such short-listed vendors;

To, at any time, add, delete or modify this RFP and to have the vendors advise CED of the effect of such changes on their proposal and/or have the vendors resubmit their proposals in light of same;

To negotiate at any time with any one or more of the vendors to the exclusion of the other vendors; and

To not proceed, for any reason, with this RFP or the project contemplated in this RFP.

By submitting its Proposal for consideration, the Vendor will thereby be agreeing to all of the following:

Without the further consent of the Vendor or providing any notice, CED may disclose any and all of the content of Vendor's Proposal to any or all of the other vendors or any third party, including any or all of the creative content contained in Vendor's Proposal;

The Vendor grants and agrees to grant to CED a non-exclusive, perpetual, fully-paid up, irrevocable license to implement, use, reproduce, modify, display, distribute, transmit, prepare derivative works of and to otherwise fully exploit, without limitation, any and all of the content of Vendor's Proposal including without limitation, all of the creative content, ideas, concepts and approached as well as all copyright therein;

Such licence shall extend to any other vendor or any other third party that CED may engage to use and implement such content;

CED shall have no obligation to provide any credit or otherwise attribute to the Vendor or anyone else any such content as may be implemented and/or used by CED;

The Vendor represents and warrants to CED that such content is the original work of the Vendor and its use by CED as contemplated in this Section will not infringe on any rights of any third party; and

All of the rights and licenses granted herein and the exercise of all such rights and licenses by CED and the other vendors and such other third parties, as described herein, are granted and may be exercised: (i) without any obligation to account to the Vendor or to otherwise pay any consideration to the Vendor; and (ii) without having to have accepted or shortlisted Vendor's Proposal.

No Further Contract or Liability Arising from RFP Process

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

- Nothing in this RFP nor the submission of the Proposal nor the review and consideration of the Proposal by CED nor will any communication between the parties in relation to the RFP or the Proposal operate to obligate any party to enter into any further business relationship with the other party and, in particular, if CED decides to engage the Vendor in connection with the subject matter of the RFP then such engagement may only occur pursuant to a written agreement that has been signed by both parties and, absent such written agreement, CED will have no further liability or obligation to the Vendor in connection with the subject matter of the RFP;
- The Vendor is participating in this RFP process at its sole risk and expense, and CED will not be liable to the Vendor for any costs, expenses or liabilities incurred by the Vendor in any way arising in connection with the Vendor's participation;
- CED has made no representations other than those expressly stated in this RFP;
- CED has the right to cancel this request for proposals at any time and to reissue it for any reason whatsoever or decide not to reissue it for any reason, without incurring any liability and no vendor will have any claim against CED as a consequence; and
- The Proposal and any accompanying documentation submitted by the Vendor will become the property of CED and will not be returned.

APPENDIX A – EVALUATION

A. SUMMARY OF EVALUATION

The following is an overview of all the categories and weighting relevant to the evaluation of proposals under this RFP.

Category: Rated Criteria	Weighting	Maximum Potential Score
1.0 Understanding of CED's requirements and facilities	10	100
2.0 Service Provider Experience, History, Philosophy, and Values	25	250
3.0 Proposed Team	20	200
2.1 Caliber of Account Executive	10	100
2.2 Team Experience and structure	10	100
4.0 Past Performance with similar requirements as CED's	15	150
5.0 References	10	100
6.0 Firm Equality, Diversity, and Inclusion	10	100
7.0 Pricing	10	100
TOTAL SCORE	100	1000

APPENDIX B – STANDARD CONTRACTOR AGREEMENT

<date>

<contractor legal name>
<contractor Address>

Dear <contractor>,

Calgary Economic Development Ltd. ("**CED**") is pleased to confirm that <contractor legal name> (hereinafter the "**Vendor**") has been selected to provide the services (hereinafter the "**Services**") required of the Vendor as described in the Statement of Work ("**SOW**") attached hereto as Appendix "A".

This agreement (the "**Agreement**") for the performance of Services consists of the SOW, and the further terms and conditions set forth herein.

1. Definitions.

(a) In this Agreement, the following terms shall have the following meanings:

- (i) "**Confidential Information**" shall mean and include any and all information, materials, records, documents, data or media, whether or not in tangible form, and including without limitation any of the foregoing in digital or electronic form, of a confidential nature and/or of a proprietary nature related to, or about, or belonging to, or concerning CED, or any third party to which CED owes a duty of confidentiality, whether provided directly by CED or on behalf of CED to the Vendor, or provided to the Vendor or obtained by the Vendor from a third party.

Confidential Information shall include, without limitation:

- (A) any information, materials, records, documents or data marked with "confidential" or words of similar import, or with respect to which the Vendor has been advised in any manner of their confidential nature, or with respect to which the Vendor could reasonably be expected to consider them confidential;
- (B) information provided orally in circumstances where confidentiality is expressly stated or could be reasonably implied;

- (C) information provided orally and subsequently confirmed in writing (including without limitation by email or facsimile) by CED as confidential;
- (D) any and all plans, drawings, diagrams, schematics, designs, devices, manuals, guides, methods, models, prototypes, mock-ups, inventions (whether or not patentable), processes and know-how of CED;
- (E) any and all personal information, being any information about an identified or identifiable individual, other than information required for the purpose of contacting or communicating with such individual in their capacity as an employee or official of an organization;
- (F) any and all Work Product (as defined); and,
- (G) any and all Derivatives (as defined).

The Confidential Information shall not include any information that is or becomes a part of the public domain through no act or omission of the Vendor, or that was in the lawful possession of the Vendor prior to disclosure and had not been obtained by Vendor either directly or indirectly from CED or on its behalf, or that is lawfully disclosed to the Vendor by a third party without restriction on disclosure and without violation by such third party of any obligation of confidentiality to CED or anyone else, or that is independently developed by the Vendor without use of or reference to the Confidential Information, provided that the burden of proof and production of satisfactory documentary evidence of any of the foregoing shall lie on the Vendor.

(ii) **"Derivatives"** shall mean and include:

- (A) any and all intellectual property of any kind based on or derived from the Confidential Information, or any portion thereof, or incorporating aspects of the Confidential Information, or comprising any improvement of or modification to the Confidential Information;
- (B) any and all data or information derived from, resulting from, extracted from, incorporating or otherwise obtained from the Confidential Information; and,
- (C) any and all information, documents, materials, reports, notes, memoranda, or data based on, extracted from, derived from, made with respect to, embodying the results of review, consideration, analysis or testing of, or containing any opinion with respect to, or otherwise incorporating the Confidential Information, or any portion thereof.

- (iii) **"Effective Date"** shall mean the date on which this Agreement is stated to be effective, or, if not so stated, the date on which this Agreement is executed by the last signatory thereto.
- (iv) **"Representatives"** shall mean and include employees, agents, personnel or contractors of the Vendor who require access to the Confidential Information for the purposes of the Vendor providing products or services to CED, provided such persons are either
 - (A) signatories to a written non-disclosure agreement preventing any further use or disclosure of the Confidential Information; or,
 - (B) are otherwise under legal obligations to the Vendor to not use or disclose the Confidential Information.
- (v) The **"Services"** shall mean the duties, tasks, and responsibilities as described in SOW.
- (vi) **"Work Product"** means and shall include without limitation any and all original works of authorship, original works subject to copyright (including without limitation all artistic, literary, dramatic and musical works and compilations or derivations), moral rights, innovations, inventions (whether or not patentable), discoveries, processes, designs, creative work or innovation of any kind or any other tangible or intangible thing or item resulting from the Services, including without limitation any and all related patents and patent rights, copyrights, trade secrets, industrial designs, integrated circuit topographies and mask works, plant breeders rights and any other proprietary rights or intellectual property, that the Vendor makes, prepares, authors, discovers, develops, devises, designs, or reduces to practice, whether alone or jointly with others, during the term of this Agreement or during the course of performing or providing the Services, or based on or arising out of performing the Services (including subsequent to the expiry or termination of this Agreement), and shall include any and all records, documentation, research, notes, memoranda, manuals, designs, specifications, formulas, processes, reports, models, mock-ups, software, know-how, show-how, plans, products, product plans, production processes, marketing plans and techniques, business plans, development plans and derivatives of or modifications to any of the foregoing. Work Product shall not include any intellectual property, confidential information or trade secrets of the Vendor in its possession prior to the Effective Date.

2. Confidentiality.

- (a) All Confidential Information will remain the exclusive property of CED and no right, title, interest or license therein is granted other than as expressly provided in this Agreement or other written instrument duly executed by CED.

The Vendor acknowledges and agrees that CED has a proprietary interest in and to the Confidential Information.

- (b) Except with the prior written consent of CED, the Vendor will not disclose the Confidential Information, will keep the Confidential Information strictly secret and confidential, will not copy, publish or disseminate the Confidential Information, and will not use the Confidential Information other than for the limited purpose of providing the Services to CED, and for no other purpose.
- (c) The Vendor shall prevent the disclosure of the Confidential Information to any unauthorized party, or copying, publication or dissemination by any unauthorized party, and shall maintain adequate security standards with respect to the Confidential Information, consistent with the highest standards of business practice in the Vendor's industry, but in no case less than on a best efforts basis, in order to prevent unauthorized access, copying, alteration, review, disclosure, dissemination or destruction of the Confidential Information. The Vendor may disclose the Confidential Information to its Representatives provided that such disclosure shall be pursuant to this Agreement and only to the extent that such Representatives require the Confidential Information for the purposes of this Agreement.
- (d) If the Vendor is requested or becomes legally compelled (by oral questions, discovery, interrogatories, requests for confidential information, documents, subpoena, civil investigative demand or similar process or otherwise) to disclose the Confidential Information, the Vendor shall provide CED with prompt written notice of same so that CED may seek a protective order or other appropriate remedy. If such protective order or remedy is not obtained, the Vendor shall furnish only that portion of the Confidential Information which is legally required and will use all reasonable efforts to obtain reliable assurance that the Confidential Information will be accorded confidential treatment.
- (e) The Vendor acknowledges and agrees that the Confidential Information is unique, proprietary, confidential and valuable, that any violation of the provisions of this Agreement would result in immediate significant and irreparable damage to CED, and that such damage could not be adequately compensated for by money damages. The Vendor agrees that in the event of any actual, pending or threatened breach, violation or default of the terms of this Agreement, CED shall, in addition to any other right, relief or remedy available to it at law or in equity, be entitled to immediately obtain an injunction, restraining order, order for specific performance, or other appropriate equitable relief or judicial order, to compel the Vendor to comply with the terms of this Agreement and to restrain any such breach or the continuation thereof without the necessity of posting security or bond or showing or proving actual damage, if any, sustained or sustainable by CED.
- (f) Within ten (10) days of receipt of a written request by CED, the Vendor will return to CED all records, material, media, tapes, disks, data or documents containing any and all Confidential Information and any and all copies thereof, including, for greater certainty, any and all Derivatives.

- (g) The provisions of this section 2 shall survive any expiry or termination, howsoever caused, of this Agreement, and remain in full force and effect.

3. Independent Contractor Status.

This Agreement does not constitute and shall not be deemed or construed as constituting a partnership, joint venture, principal/agency relationship or employer/employee relationship between the Vendor and CED. The Vendor shall remain an independent contractor and is not and shall not represent itself to be an agent or employee of CED. The provision of the services will not entitle the Vendor or its employees to any benefit, privilege or entitlement of employment of CED, including supplemental health or dental insurance, life insurance, short-term or long-term disability insurance, workers' compensation, pension, profit-sharing, group RRSP, vacation pay, sick leave or severance. The Vendor shall be responsible for and shall pay the compensation and other benefits of its employees and shall pay all related taxes and contributions required of employers.

4. Intellectual Property Rights

- (a) **Ownership.** All Work Product, including all right, title and interest therein, and any tangible media containing or embodying Work Product or any portion thereof, shall be and remain the sole and exclusive property of CED. Any and all moral rights, or any other right by its nature incapable of assignment, in or to Work Product are hereby irrevocably waived by the Vendor and the Vendor agrees to irrevocably waive all such rights in or to Work Product that may arise in the future.

In consideration of the benefits accruing to the Vendor pursuant to this Agreement and therefore without further or subsequent consideration, the Vendor hereby irrevocably assigns, and irrevocably agrees and undertakes to assign in the future, forthwith upon development, discovery, creation, authorship, reduction to practice or the Vendor otherwise becoming aware of, all Work Product, and all right, title and interest therein, to CED. The Vendor further agrees and undertakes to promptly and fully disclose, in writing, to CED any and all Work Product forthwith on discovery, creation, authorship or reduction to practice, such disclosure to include comprehensive, full and complete details and particulars thereof.

- (b) **Further Assurances and Cooperation.** At the request of CED and at its expense, both during and after the term of this Agreement, the Vendor agrees to execute any and all other documents, assignments, agreements and further assurances and to do all such things as are necessary to give full and complete effect to the ownership of Work Product by CED, including all requirements by CED to prosecute any applications or actions for registration of any interest therein and to prosecute any actions or litigation enforcing the rights of CED or restraining the actions of any party infringing the rights of CED or misappropriating any property of CED.

- (c) The provisions of this section 4 shall survive any expiry or termination, howsoever caused, of this Agreement, and remain in full force and effect.

5. Freedom of Information

FOIPP The Vendor acknowledges and agrees that all documents, records and information provided to CED by the Vendor or on its behalf, and all documents, records and information about or with respect to the Vendor in the custody and control of CED, are subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act*, Alberta ("**FOIPP**") as amended, revised or substituted from time to time. CED is subject to the provisions of FOIPP, including its provisions granting persons rights of access to information, and restricting CED from disclosing certain information as provided in FOIPP, and CED will comply with all FOIPP requirements with respect to disclosing or not disclosing all such documents, records and information.

- (a) In the event that the Vendor wishes to attempt to avail itself of the protective provisions of FOIPP with respect to possibly restricting the disclosure of documents, records and information related to or provided by the Vendor, or with respect to which the Vendor wishes to claim confidentiality, the Vendor will clearly mark as confidential all such documents, records and information, and/or the portions thereof with respect to which confidentiality is claimed by the Vendor. The Vendor acknowledges that any and all such markings may not be binding on CED or on any other legal authority, including without limitation the Information and Privacy Commissioner of Alberta. The Vendor further acknowledges and agrees that, notwithstanding the presence or absence of such markings, CED may be required to disclose all or any portion of any documents, records and information received from or relating to the Vendor, and CED may do so without any liability whatsoever to the Vendor. In the event that the Vendor is not prepared to accept the risk of disclosure pursuant to the provisions of FOIPP or other applicable law, the Vendor agrees that it will not provide such documents, records and information to CED.
- (b) In the event that the Vendor has in its custody or control any documents, records or information related to this Agreement or related to CED ("**FOIPP records**") which CED does not have in its possession, and CED is or becomes required by FOIPP or other legal requirement to obtain and/or disclose such FOIPP records, then within seven (7) calendar days of written request by CED, the Vendor shall provide to CED, at its cost, all such FOIPP records requested. The Vendor agrees to maintain all documents, records and information which potentially comprise FOIPP records secure and available to CED during the term of this Agreement and for a period of two (2) years following its expiry or termination.
- (c) The provisions of this section 5 shall survive any expiry or termination, howsoever caused, of this Agreement, and remain in full force and effect.

6. Time

Time is of the essence for all services performed under this Agreement.

7. Payment Terms

The Vendor agrees to invoice CED monthly based on progressed completion of the “**Services**”. CED will process payments within thirty days of receipt and verification of the “**Services**” performed. Any expenses and disbursements that the Vendor is seeking reimbursement must have been pre approved and invoiced as they are incurred together with the monthly progress billing.

8. Liquidated Damages for Delay

The Vendor agrees to the timelines established by the SOW. CED operates under strict timelines. In the event the Vendor is responsible for any delay of the work as described herein and where such delay is not a result of any agreed adjustment to timelines, or fails to completely deliver within the agreed timeframes during the execution of this Agreement, CED is entitled to deduct from the purchase price a sum equal to 1 percent (1.0%) thereof for each day of delay incurred by the Vendor, up to a maximum of 10 percent (10%) of the total Agreement cost amount. This sum may be deducted directly on final payment to the Vendor or this sum may be billed directly to the Vendor upon which a payment in net thirty (30) days will be required.

9. Indemnity

The Vendor agrees to indemnify and hold harmless CED from any loss or damage, any and all third party claims, demands, or actions, for which the Vendor is legally responsible, including those arising out of negligence, willful harm, or crimes by the Vendor or Vendor's employees, agents, or sub-Vendors. This hold harmless shall survive this Agreement.

CED will not be liable or responsible for any bodily or personal injury or property damage of any nature that may be suffered by the Vendor, its employees, agents or sub-Vendors in the performance of this Agreement, except to the extent of any negligence or misconduct on the part of CED.

10. Term and Termination.

(a) **Term.** This Agreement shall be effective on the Effective Date and shall continue in full force and effect until **<expiration date>** (“Expiration Date”). The Vendor shall begin providing Services on **<commencement date>** (“Commencement Date”).

(b) **Termination.** CED may terminate this Agreement at any time at its convenience and without breach or default by giving the Vendor ten days' prior written notice, in which event CED shall have no further liability to the Vendor except for payment of fees for Services performed or for work progress to that date and expenses incurred in accordance with this Agreement up to the effective date of termination. CED may also immediately terminate this Agreement if the Vendor materially or repeatedly breaches or defaults in

performing any of its obligations hereunder, which default or breach is not cured within five business days after CED gives the Vendor written notice to that effect.

11. Gifts and Gratuities

The Vendor or its sub Vendors shall not give to, or receive from any employee or agent of CED, or a spouse or relative of any such person, any commission, fee, rebate or gift, other than courtesies of a nominal value, in connection with this Agreement.

12. Assignment or Subcontracting

The Vendor shall not assign any obligations under this Agreement, including any remuneration due, to any third party, other than those identified in the proposed project plan, without the prior written consent of CED. The Vendor will ensure that all assignees or subcontractors of any tier are bound by the terms of this Agreement, as applicable.

13. Dispute Resolution Process

In the event of any dispute arising from or relating to this agreement, the parties hereto shall settle the dispute to the exclusion of the courts, by compulsory arbitration. The party who decides to submit a dispute to the arbitration process shall send a notice to the other party. The arbitration will be conducted by one arbitrator and in conformity with the Arbitration Act of Alberta. The parties will have ten (10) days from the reception of the notice to select an arbitrator and if they cannot agree, they may apply to the Court of Queen's Bench of Alberta to ask a judge to select an arbitrator. The hearing of the dispute must take place within thirty (30) days following the nomination of the arbitrator. The arbitration award must state the reasons on which it is based, be made in writing and transmitted to the parties within thirty (30) days following the hearing. The decision of the arbitrator is final and without appeal and, is compulsory when it has been promulgated. The arbitrator shall decide the expenses related to the arbitration.

14. General

- (a) This Agreement and all matters arising from it is subject to the laws in force in the Province of Alberta, and the parties submit to the exclusive jurisdiction of its courts.
- (b) This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. For purposes of this Agreement, the delivery of a counterpart signature by scanned or facsimile transmission will be deemed the equivalent of the delivery of an original counterpart signature.

Dated at Calgary this <day> day of <month>, <year>.

Calgary Economic Development Ltd.

Per: _____

Acknowledged and agreed this _____ day of _____, _____.

<contractor legal name>

Per: _____
<authorized signor name, title>

Appendix "A" – Statement of Work

**(attached to and forming part of the Agreement
between CED and <contractor legal name>
Dated <date>)**