



**REQUEST FOR PROPOSALS  
March 21, 2017**

**FOR  
PLANNING AND ENGINEERING SERVICES  
GREENFIELD INDUSTRIAL PARK**

**CITY OF MOOSE JAW  
SASKATCHEWAN**

**CLOSING DATE:  
April 18, 2017 at 4:30 p.m. (Central Standard Time)**

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## INSTRUCTIONS TO PROPONENTS

### INTRODUCTION

1. The City of Moose Jaw ("Moose Jaw") is inviting proposals from qualified integrated Land Use Planning and Engineering firms to provide a conceptual land use / servicing plan and detailed construction design services for an industrial subdivision (the "Services").
2. The purpose of this Request for Proposals ("RFP") process is to select a qualified Planning and Engineering firm to enter into a Services Agreement with Moose Jaw for the performance of the Services. Further details about the Services required by Moose Jaw are set out in Schedule "A" – Services Requirements.
3. **This RFP is not a tender and is not subject to the laws of competitive bidding. No bid contract or agreement is created by the submission of a proposal.**

### RFP DOCUMENTS

4. The following documents are attached to and form part of this RFP:

- Schedule "A" – Services Requirements
- Schedule "B" – Proposal Content Requirements
- Schedule "C" – Form of Services Agreement
- Schedule "D" – Maps

### INQUIRIES

5. Any inquiries concerning this RFP should be directed in writing to the following:

Assistant City Planner  
City of Moose Jaw  
Phone: 306-694-4429  
Fax: 306-691-0292  
E-mail: [ebjorge@moosejaw.ca](mailto:ebjorge@moosejaw.ca)

City of Moose Jaw  
228 Main Street N,  
Moose Jaw, SK, S6H 3J8

6. All inquiries should be in writing and received by Moose Jaw on or before April 11, 2017.
7. Moose Jaw may circulate its response to any inquiries to all proponents, along with the original inquiry and may post such response and original inquiry on [www.sasktenders.ca](http://www.sasktenders.ca) or may choose not to reply to any inquiry.
8. Proponents should refrain from contacting other employees, agents or members of Council of Moose Jaw in respect of this RFP process, including for the purposes of lobbying or attempting to influence the outcome of this RFP process. Any such contact may, in Moose Jaw's sole discretion, result in disqualification.

### SUBMISSION OF PROPOSALS

9. Proposals should be in both paper and electronic format. Proponents should submit three (3) hard copies of their proposal (including one unbound copy for photocopying) plus an electronic copy on a memory stick or USB indicating the RFP title and Closing Date to the following address by **4:30 p.m. (Central Standard Time) April 18, 2017:**

Director of Planning and Development Services  
City of Moose Jaw  
Phone: 306-694-4445  
Fax: 306-691-0292  
E-mail: msanson@moosejaw.ca

City of Moose Jaw  
228 Main Street N,  
Moose Jaw, SK S6H 3J8

10. Moose Jaw's office hours for the purpose of receiving proposals are 8:15 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m. (Central Standard Time), Monday to Friday, excluding statutory holidays.
11. If you require additional time to submit your proposal, you should contact the Director of Planning and Development by email at msanson@moosejaw.ca. Moose Jaw may, in its sole discretion, allow additional time for proponents to submit a proposal.
12. Proposals and accompanying documentation provided to Moose Jaw in response to this RFP will not be returned.

### **CONTENT OF PROPOSALS**

13. Proposals should address the items set out in Schedule "B" - Proposal Content Requirements.
14. Proponents may provide additional information beyond that requested in the RFP for Moose Jaw's consideration. Any such additional information may be considered by Moose Jaw in its sole discretion.
15. Proponents may be asked to submit additional information pertaining to their past experience, qualifications and such other information that Moose Jaw might reasonably require.

### **COST OF PROPOSALS**

16. Moose Jaw is not responsible for any costs incurred by proponents in preparing their proposals, attending any meetings or interviews with Moose Jaw, making any presentations to Moose Jaw in connection with their proposals, or otherwise incurred in connection with this RFP process.
17. This RFP does not create any legal obligations between Moose Jaw and any proponent.

### **EVALUATION PROCESS**

18. Proposals will be opened and evaluated privately.
19. In assessing proposals, Moose Jaw will take into consideration the following evaluation criteria:
  - a) qualifications and experience of the proponent and its lead personnel in the service areas being offered;
  - b) qualifications and experience of any sub-consultants and their lead personnel;
  - c) the capacity of the proponent to provide and successfully complete the services required by Moose Jaw as well as any optional services offered by the Proponent, in a timely, safe, efficient and quality manner;
  - d) proponent's overall fee proposal, including any reimbursable expenses;
  - e) terms of the Services Agreement that the proponent is prepared to accept;
  - f) the completeness of a proponent's proposal; and
  - g) such other criteria as Moose Jaw considers relevant.
20. Moose Jaw has not predetermined the relative importance of the above evaluation criteria. Moose Jaw expects to

select the proponent that provides the best overall value, as determined by Moose Jaw in its sole discretion, having regard to the evaluation criteria referred to above.

21. Proposals will be evaluated on the basis of the information provided in response to these Instructions to Proponents. In addition, in assessing the proponent's qualifications, experience and capacity, Moose Jaw may also consider the following:
  - a) clarifications and/or additional information that may be supplied pursuant to requests from Moose Jaw;
  - b) interviews and/or reference checks that may be conducted at Moose Jaw's discretion;
  - c) previous experience of Moose Jaw in working with the proponent; and
  - d) information received from any source that Moose Jaw considers reliable.
22. Moose Jaw may, in its sole discretion, request clarification from a proponent during the evaluation process.
23. Proponents are advised that the evaluation process is subjective in nature and Moose Jaw's intention is to consider, in its sole discretion, each proposal on its merits, without regard to the rules or principles of competitive bidding, including without regard to whether a proposal is compliant with this RFP.
24. Moose Jaw may short-list proponents and conduct interviews with short-listed proponents at its sole discretion. Furthermore, Moose Jaw may negotiate any and all aspects of a proposal, including but not limited to the fee proposal, and the Services Agreement terms.
25. An invitation to interview or to negotiate does not obligate Moose Jaw to conclude the Services Agreement with that proponent. Moose Jaw may interview or may negotiate any aspect of any proposal with one or more proponents at any time.
26. Moose Jaw will notify all unsuccessful proponents after entering into a definitive agreement with the successful proponent. Unsuccessful proponents may request a debriefing interview to obtain feedback on their proposal after receiving this notification.

#### **ANTICIPATED SCHEDULE OF EVENTS**

27. The following is the anticipated schedule of events related to this RFP. These dates are provided as target dates only and may be changed at any time by Moose Jaw in its sole discretion:
  - a) RFP Released **March 21, 2017**
  - b) Inquiries respecting RFP **March 21, 2017 – April 11, 2017**
  - c) Closing Date **April 18, 2017**
  - d) Tentative Evaluation approx. **two** weeks following the Closing Date
  - e) Tentative Services Agreement Execution **April 25, 2017**

#### **FORM OF AGREEMENT**

28. Any successful proponent(s) will be expected to enter into a Services Agreement for professional or consulting services based on the form of agreement attached at Schedule "C" (the "Services Agreement"), with such modifications as agreed to by Moose Jaw and a chosen proponent.

## **EFFECT OF RFP**

29. This RFP is not intended to be a tender or otherwise subject to the laws applicable to competitive bidding. Until such time as Moose Jaw signs a definitive Services Agreement with a proponent, Moose Jaw does not intend to create a contractual relationship including a bid contract (either express or implied) with any proponent submitting a response to this RFP.
30. Submission of a proposal does not obligate Moose Jaw to accept any proposal or to proceed further with any of the Services. Consideration of any proposal shall be in Moose Jaw's sole discretion.
31. Proposals may be withdrawn or amended by proponents at any time by written notice to Moose Jaw prior to Moose Jaw and a proponent signing a formal contract.
32. Proponents are advised that Moose Jaw is intending to conduct a flexible procurement process, not subject to the law of competitive bidding, and that Moose Jaw may, in its sole discretion, at any time and for any reason:
  - a) reject any and all proposals (including, for greater certainty, the lowest cost proposal);
  - b) modify or vary any aspect of this RFP at any time before or after the time for submission of proposals;
  - c) extend the deadline for submission of proposals at any time before or after the time for submission of proposals;
  - d) accept any non-compliant, conditional or irregular proposal or any alternate proposal, in whole or in part;
  - e) discuss the terms of a proposal submitted by a proponent with that proponent at any time, on a confidential basis, for the purposes of clarification and/or negotiation of that proposal;
  - f) allow any proponent submitting a proposal to modify or vary any aspect of its proposal at any time;
  - g) verify or seek clarification of any and all information provided pursuant to this RFP and provide proponents with an opportunity to correct any defects, informalities or irregularities in their proposal;
  - h) negotiate any and all aspects of any proposal and the provisions of the Services Agreement (including, without limitation, those provisions relating to fees and/or any scope of services) with any one or more proponents at any time in its sole discretion, whether before, during or after the selection and evaluation process; and
  - i) cancel this RFP at any time for any reason and thereafter proceed in any manner it sees fit, in its sole discretion, including:
    - i. issuing a new request for proposals or other procurement document based on the same or changed scope of services or other requirements;
    - ii. entering into sole source negotiations with any one or more of the proponents or any other person; or
    - iii. cancelling the procurement in its entirety.

## **CONFIDENTIALITY, PUBLIC ANNOUNCEMENTS**

33. Proponents are expected to keep confidential all documents, data, information and other materials of Moose Jaw which are provided to or obtained or accessed by a proponent in relation to this RFP, other than documents which Moose Jaw places in the public domain. Proponents are expected not to make any public announcements or news releases regarding this RFP or the entering into a Services Agreement pursuant to this RFP, without the prior written approval of Moose Jaw.
34. Proponents are advised that as a city, Moose Jaw is subject to the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan), which provides a right of access to information in

records under the control of a municipality. Proponents are advised that Moose Jaw may be required to disclose the RFP documents and a part or parts of any proposal in response to this RFP pursuant to *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan).

35. Proponents are also advised that *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan) does provide protection for confidential and proprietary business information; however, proponents are strongly advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their proposal in response to this RFP. **Proponents should identify any information in their proposals that they consider to be confidential or proprietary business information.**

## Schedule "A" – Services Requirements

### Background and Description of the Project

The City of Moose Jaw is seeking to develop a new greenfield industrial park in the south-east part of the City surrounding the City sewage lagoons (see attached map). The City has recently altered its municipal boundaries to include an additional ~3800 acres of agricultural land including the sewage lagoons for the purpose of accommodating new industrial development. The first phase of the industrial park is estimated at a total area 755 acres (see attached map). Some other key project facts are listed below:

- The City is in the process of selling 100 acres of land within the study area to Canadian Protein Innovations Ltd. (CPI) for a wet pea protein fractionation plant. CPI is expecting to start construction in July 2017, and begin operation in 2018. They won't require sewer and water or roads until they are operational, but some key servicing decisions and pre-screening will need to be made prior to CPI starting construction in July 2017 to ensure compatibility with future City infrastructure.
- The area is also being considered for a SaskPower Natural Gas Combined Cycle Power Generation Plant, a Trans-Gas Town Border Station, and several other industries.
- There has been substantial conceptual design work completed including a rail spur, heavy-haul traffic routing to the Trans-Canada Highway #1, preliminary lot layouts, preliminary negotiations with NavCan regarding maximum building heights due to proximity to CFB 15 Wing, preliminary design and negotiation for a high volume natural gas line and preliminary costing for servicing.
- The City is currently in the process of rezoning the study area to industrial zoning, which matches the Official Community Plan Future Growth Map.
- See attached "Site Catalogue" to view the information in the current marketing package for the industrial park.

This RFP is for the completion of a phased land use and servicing conceptual design for the first 755 acres of the industrial park with a focus on expediting the minimum necessary planning and detailed design for City infrastructure to accommodate the construction of CPI, who plan to start construction of their facility in July 2017. The concept and planning for the first 755 acres shall also include options for future expansion of the industrial park. The successful proponent will have excellent organizational skills and the ability to work with multiple stakeholders within tight timelines, and have extensive experience and knowledge of best practices for industrial development.

The City of Moose Jaw's Economic Development Officer has been working with the RM of Moose Jaw, the Provincial Government and several developers interested in land surrounding the City's sewage lagoons. The developers would require water and sewer and road services from the City.

The area has been identified by industry site selectors as having key advantages: the topography of the land is flat and ideal for large scale industrial construction, and since much of the area is near the lagoons, it is not suitable for other types of development. The proposed industrial site has excellent potential for access to rail, road, gas, power and water. The strategy of clustering several industrial plants in one area becomes attractive as servicing costs can be shared by developers, including the building of a new rail spur.

The fact that both City of Moose Jaw and the RM of Moose Jaw have land which they own in this area which they may sell is a major advantage over the other locations, where land may not be 'for sale'. Even so, the City is in competition with other locations in Saskatchewan and Alberta if it hopes to attract this kind of large scale industrial development to our City.



## **Scope of the Services**

The project is anticipated to be divided into several stages:

### *Stage I: Expedited Planning and Design for Anchor Tenant.*

1. Expedite all necessary pre-screening, planning, detailed design, and preparation of tender documents for required infrastructure and service connections to accommodate Canadian Protein Innovations Ltd. construction start date of July 2017. This will include analyzing serviceability and working with CPI's design engineers to ensure compatibility of City and private infrastructure (Note: CPI's property fronts onto and will be serviced from Coteau Street East).
2. This stage will also include providing detailed design and tender documents for the City to tender construction of this infrastructure in fall 2017 / spring 2018.
3. Planning and conceptual design for the larger study area will occur during this stage as required and as is practical, assuming future expansions of the park. This will include recommendations for best practices in industrial subdivision design.

### *Stage II: Planning and Conceptual Design for Phase 1 of Industrial Park*

1. Building on existing conceptual design work, further develop the land use concept and servicing design for the first phase (755 acres) of the industrial park. This will include but is not limited to the following:
  - Develop land use and servicing concept in consultation with internal and external stakeholders. The concept shall include general land use and serviceability analysis for future expansion of the industrial park.
  - Analyze traffic patterns and identify proposed routes and upgrades including connections to Highway #1 and #2.
  - Propose best practice for industrial land use development and regulation.
  - Complete pre-screening (including but not limited to serviceability study, drainage study, environmental and heritage assessments).
  - Identify best practices for addressing any issues of noise, dust, odor, and aesthetics.
  - Propose phasing of infrastructure, cost estimates, and lot sales strategy.
  - Analyze existing easements and utilities, and design utility corridors to maximize developable land.

\*Note: Phase 1 is considered to be all City-owned and RM of Moose Jaw-owned land as identified in the attached area map in Schedule D. The phasing as described in the marketing package has been superseded.

## **Standards of the Services**

The proponent shall incorporate approved City of Moose Jaw Construction Standards and Specifications into the design, unless otherwise approved or directed by the City Engineer.

The design shall have any relevant regulations found in the City of Moose Jaw Official Community Plan, Planning and Development Act (2007), as well as any other applicable regulations.

The required work shall be completed by a team including but not limited to Professional Engineers, Community Planners, and Saskatchewan Land Surveyors licensed to practice in the Province of Saskatchewan.

## **Schedule**

Key servicing decision will have to be finalized by July 2017, with detailed design and tender documents for minimum infrastructure complete by September, 2017. Stage II is anticipated to be completed by February 2018.

## **Related Deliverables and Work Product**

The successful proponent shall provide electronic (PDF, CAD, or other format requested by the City) and hard copies (minimum 5 copies) of all draft and final documents. The copies of the plans shall be signed and sealed by a Professional Engineer Licensed to Practice in the Province of Saskatchewan, and/or a registered Community Planner, Saskatchewan Land Surveyor, or other professional as the case may be.

## **Schedule "B" - Proposal Content Requirements**

Proponents should, at a minimum, address the following in their Proposals.

### **Firm Detail**

1. A brief description of your firm including any qualifications you consider relevant.

### **Relevant Experience**

2. A description of your firm's experience in performing similar work, including two (2) references of work performed for municipalities or other government bodies or agencies or similar private sector work in the previous five (5) years, and appropriate contact information for references.

### **Lead Personnel**

3. Identify the lead personnel responsible to lead the delivery of the services the proponent is prepared to offer and their expected involvement. Moose Jaw expects that each of the identified lead personnel will be licensed and in good standing to perform the services in Saskatchewan.
4. Describe the relevant experience of the lead personnel and include their resumes and professional designations.

### **Capacity**

5. Moose Jaw expects that you will have sufficient resources available to meet the service requirements of Moose Jaw in a timely and efficient manner. Provide a brief description of your firm's staffing resources that will be utilized to meet the service requirements of Moose Jaw.

### **Subconsultants**

6. Provide the same information as provided for item 1-5, above, for any subconsultant that you propose to engage to provide the services.

### **Liability Insurance**

7. Moose Jaw expects that you carry professional liability insurance in an amount of not less than \$5,000,000.00 per occurrence. Provide certificates of insurance outlining the amounts of professional liability insurance that you carry.

## **Fee Proposal**

8. Proponents should provide a detailed fee proposal and explain why it is beneficial to the City of Moose Jaw and the proponent, using a combination of the following.

### Fixed Fee

Please provide the fixed fee you are prepared to offer for completing the Services.

### Percentage-Based Fees

Please provide the percentage-based fees on the cost of construction that you are prepared to offer and describe any conditions or limitations applicable to such percentage fees.

### Hourly Rates

Please provide a complete schedule of all hourly rates for the lead personnel, any other professionals and any other service providers expected to be involved in the performance of the Services, exclusive of GST. Also indicate the duration that the hourly rates will remain in effect for.

### Reimbursable Expenses

Please describe any other reimbursable expense categories and any proposed mark-up. The City prefers that no mark-up is proposed for reimbursable expenses.

9. All prices/rates should be quoted in Canadian Dollars, exclusive of any applicable GST.
10. The proponent's rates shall be inclusive of the cost of all payroll burdens, benefits, insurance, safety certifications, training, permits, and licenses.
11. Unless expressly set out in the proposed fee structure, no other costs are chargeable to Moose Jaw in connection with the performance of the Services.

## **Schedule**

12. Proposals should include a proposed schedule for completion of the Services, as set out in this RFP.

## **Exceptions to Services Agreement Terms**

13. A detailed description of any exceptions or additions to the Services Agreement should be clearly set out in a proponent's proposal. Moose Jaw will assume, in the absence of any such exceptions or additions, that the proponent accepts the form of Services Agreement.

## **Conflict of Interest Disclosure**

14. Disclose any actual or potential conflicts of interest that may exist between your firm and its management, and Moose Jaw, its members of Council and management, and the nature of such conflict of interest. If a proponent has no such conflict of interest, a statement to that effect should be included in its proposal. Moose Jaw employees are ineligible to participate, directly or indirectly, with any proponent.

## **Confidentiality**

15. Proponents are advised that as a city, Moose Jaw is subject to the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan), which provides a right of access to information in records under the control of a municipality. Proponents are advised that Moose Jaw may be required to disclose the RFP documents and a part or parts of any proposal in response to this RFP pursuant to *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan).

16. Proponents are also advised that *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan) does provide protection for confidential and proprietary business information; however, proponents are strongly advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their proposal in response to this RFP. **Proponents should identify any information in their proposals that they consider to be confidential or proprietary business information.**

Schedule "C" – Form of Services Agreement



CONSULTING SERVICES AGREEMENT

Agreement dated \_\_\_\_\_, 20\_\_

Between:

CITY OF MOOSE JAW, a municipal corporation continued under *The Cities Act* (the "City")

- and -

\_\_\_\_\_, being a body corporate pursuant to the laws of Saskatchewan (the "Consultant")

WHEREAS the Consultant has agreed to provide the goods and services as outlined in the Request for Proposal for the City pursuant to its awarded Proposal dated \_\_\_\_\_, 20\_\_ (the "Proposal").

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and promises hereinafter contained, and for other good and valuable consideration now paid and delivered by each party to the other, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, the City and the Consultant each agree with the other as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, including the recitals and schedules hereto, the following terms shall have the meanings set out below:

- (a) "Agreement" means the within agreement between the City and the Consultant to perform the tasks, duties and responsibilities, as described in the RFP.
(b) "Applicable Laws" collectively means the common law and any and all statutes, by-laws regulations, permits, approvals, certificates of approval, licenses, judgments, orders, injunctions, authorizations, directives, whether federal, provincial or municipal;

- (c) **“Business Day”** means any day except Saturday, Sunday or any statutory holiday in the Province of Saskatchewan;
- (d) **“Force Majeure”** means, as long as the occurrence or effects of the event could not have been avoided, prevented or provided against by the party relying on the event with the exercise of reasonable care and/or diligence or by making commercially reasonable alternative arrangements, any act of God, including storms, tornados, earthquakes, landslides, floods, washouts, and fires; any act of terrorism, sabotage, war, insurrections, vandalism, riots, epidemics; restraints by governments or governmental agencies; any court order, or directive or ruling of any governmental or administrative body; or any other similar cause beyond the reasonable control of the party relying on the event, but does not include:
- i. equipment failure, strikes, lockouts, and any other industrial concerted action by workers of the Consultant;
  - ii. shortages of labour, materials, transportation or utilities unless caused by circumstances that are themselves Force Majeure; or
  - iii. lack of finances or any inability to perform because of the financial condition of the Consultant.
- (e) **“Intellectual Property”** means any process, information, technology, know-how, software (whether compiled or source code), formulation, substance, model, drawing, specification, design, industrial design, or invention, whether or not capable of protection by law relating to patent, copyright, trade-mark, industrial design, privacy, trade secret, or some other form of intellectual property right;
- (f) **“Primary Contact”** means the prime person a Proponent (that has submitted a Proposal), designates to represent the Proponent during the competitive process associated with the RFP. There can be only one (1) Primary Contact.
- (g) **“Project”** shall have the meaning ascribed to it in Section 2.1 hereof;
- (h) **“RFP”** shall have the meaning ascribed to it in Section 1.2 hereof;
- (i) **“RFP Response”** shall have the meaning ascribed to it in Section 1.2 hereof;
- (j) **“Services”** shall have the meaning ascribed to it in Section 2.1 hererof; and
- (k) **“Work”** means the labour, materials, and services required to be performed by a Contractor to complete the Project;
- (l) **“Work Product”** collectively means all documents, drawings, data, and other materials, including all input, advice and commentary, whether written or unwritten, relating to the Services produced by the Consultant pursuant to this Agreement.

## 1.2 Schedules

The following are the schedules attached to and incorporated in this Agreement by reference and deemed to be part hereof:

- (a) the City's Request for Proposals, attached hereto and marked as Schedule "A" (the "**RFP**"); and
- (b) the Consultant's amended Proposal for Services dated \_\_\_\_\_ attached hereto and marked as Schedule "B" (the "**RFP Response**").
- (c) The Agreement may be modified only by a written amendment signed by persons duly authorized by the City and the Consultant.

### **1.3 References**

For all purposes of this Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

- (a) the headings are for convenience of reference and do not form a part of this Agreement nor are they intended to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions;
- (b) any reference to a currency is a reference to Canadian currency;
- (c) "in writing" or "written" includes printing and typewriting, which may be communicated by facsimile or other electronic means;
- (d) the word "including", when following any general statement, term or matter, is not to be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather is to be construed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding such statute or such regulation; and
- (f) words importing the masculine gender include the feminine or neuter gender and words importing the feminine gender include the masculine or neuter gender and words in the singular include the plural, and words importing the neuter gender include the masculine or feminine gender and words in the plural include the singular.

### **1.4 Invalidity of Provisions; Severability**

If any covenant, obligation or agreement of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the

application of such covenant, obligation or agreement to persons, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation and agreement of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

### **1.5 Waiver**

No failure or delay on the part of any party in exercising any right, remedy, recourse, power or privilege (for the purposes of this Section 1.5, collectively, a “**Right**”) under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any Right preclude any other or further exercise thereof or the exercise of any other Right. Except as may be limited herein, any party may, in its sole discretion, exercise any and all Rights available to it under this Agreement or any other remedy available to it at law or in equity and such Rights may be exercised concurrently or individually without the necessity of making any election.

### **1.6 Governing Law, Attornment**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan and the laws of Canada applicable therein and the parties hereto hereby irrevocably attorn to the jurisdiction of the courts of Saskatchewan.

### **1.7 Conflicts and Paramountcy**

In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Schedules and any inconsistency between the Schedules will be resolved in the following order of priority:

- (a) the RFP; and
- (b) the RFP Response.

## **ARTICLE 2 PROVISION OF SERVICES**

### **2.1 Engagement and Project Scope**

The City hereby engages the professional services of the Consultant and the Consultant agrees to provide the City with professional services in connection with the \_\_\_\_\_ (the “**Project**”), the details of such services as are set out in the RFP and the RFP Response, which are attached hereto and form part of this Agreement (collectively, the “**Services**”).

### **2.2 Consultant’s Covenants**

The Consultant shall:



- (a) before starting the Services, appoint a competent, authorized representative acceptable to the City to represent and act for the Consultant, inform the City in writing of the name and address of such representative together with a clear statement of the scope of authority to represent and act for the Consultant, and specify any and all limitations of such authority;
- (b) furnish at its own expense and cost any and all necessary labour, machinery, equipment, tools, transportation, permits, materials, and whatever else is necessary in the performance and completion of the Services other than such items therefore as the City specifically agrees to furnish;
- (c) cause a minimum of interference with the City's operations and the operations of other contractors on the premises, take all necessary precautions to protect the premises and all persons and property thereon from damage, and, on completion of the Services, leave the premises clean and free of all tools, equipment, waste material, and rubbish;
- (d) acquaint itself with the job site and with all conditions pertaining to the performance of the Services. The City accepts no responsibility for the failure of Consultant to familiarize itself as required, and is not prepared to allow any claim for an increase in fees or compensation arising from any failure of Consultant to reasonably anticipate difficulties;
- (e) perform the Services in accordance with industry standards in a good and workmanlike manner and with that degree of care, skill and diligence normally provided in the performance of services of a similar nature with those contemplated by this Agreement;
- (f) deliver to the City all Work Product as required by this Agreement;
- (g) comply with all occupational health and safety requirements that may be applicable and carry out the Services with due regard for public safety, and further provide the City with prompt notice of any occupational health and safety order that the Consultant receives in respect of the Project;
- (h) obtain all required permits, licenses, authorizations, approvals and accreditation, from the City;
- (i) comply with all Applicable Laws, regulations, bylaws, orders and decrees of government or other authorities with jurisdiction; and
- (j) promptly pay all due taxes, duties, fees or other amounts imposed by law, any government, or other authority having jurisdiction, including all amounts required to be paid under The Saskatchewan Workers' Compensation Act, 2013, as amended;
- (k) review and provide opinions and advice to the City as may be required from time to time such that the City can advance the Project and ensure completion of the Project in accordance with the standards and requirements specified by the City.

### **2.3 Consultant's Representations and Warranties**

The Consultant represents and warrants to the City that:

- (a) it is knowledgeable and experienced with respect to the execution of like projects and with respect to like services, and that it has the resources necessary to perform the Services as required; and
- (b) it owns the Intellectual Property rights associated with the deliverables under this Agreement, including the right to grant the City right to use the deliverables pursuant to Section 9.3, free from all encumbrances, that its Intellectual Property rights and the City's right to use them as granted pursuant to Section 9.3 do not infringe upon the intellectual property rights of any third party, and that the execution of this Agreement does not violate any other arrangements entered into by the Consultant.

## **2.4 City's Covenants**

The City shall:

- (a) upon request by the Consultant, make available relevant information or data pertinent to the Project; provided, however, that the Consultant agrees to return or destroy all data and information (written or electronic) specifically indicating underground utility locations or similar infrastructure information, or which has been otherwise identified by the City, in writing, to be destroyed. No guarantee expressed or implied is given to the accuracy and completeness of such information or data so provided;
- (b) give prompt consideration to all preliminary reports and other documents relating to the Project presented to it by the Consultant. Whenever prompt action is necessary, inform the Consultant of its decisions in such reasonable time so not to delay the Services;
- (c) arrange and make provision for the Consultant's entry and ready access to such property (public and private) as well as to the Project site, as is necessary to enable the Consultant to perform the Services; and
- (d) give prompt written notice to the Consultant whenever the City or its representative become aware of any defects or deficiencies in the Work Product or Services.

## **2.5 Administration and Co-ordination of Project**

- (a) The authority for the general co-ordination of the Project shall reside jointly with the City and the Consultant.
- (b) The Consultant agrees that it shall assist the City with the coordination of the Project as may be directed by the City from time to time.

# **ARTICLE 3 FEES AND EXPENSES**

## **3.1 Fees and Expenses**

- (a) For the completion of the Services, the City will pay the Consultant at the hourly rates identified within the RFP Response a total fee not to exceed \$\_\_\_\_\_ (plus applicable GST), which sum is an all-inclusive fee for the Services, expenses and disbursements.

- (b) Any amount of consideration or reimbursement over the amounts in Section 3.1(a) must receive the formal written approval of the City before the City will become liable to pay such amounts to the Consultant.

### **3.2 Payment of Fees and Expenses**

- (a) The City will make payments to the Consultant for the Services no later than 30 days after receiving an itemized invoice from the Consultant for all the Services provided and disbursements incurred in the 30 day period immediately prior to the date of the invoice.
- (b) The City may, in its sole discretion, delay its payment of any part of an invoice that is related to Services not yet performed or disbursements not yet incurred until the Services are performed and the disbursements are incurred.
- (c) The Consultant shall maintain detailed records of hours worked, salaries paid and receipts for chargeable disbursements, which shall be made available for inspection and audit during normal working hours by the City when so requested.
- (d) Notwithstanding the progress payments made on the contracts, the City shall withhold a final payment in an amount of fifteen (15) percent of the invoiced fees until the final report contemplated in Stage 2 of the Proposal is submitted to City Council.

### **3.3 Taxes**

The Consultant represents, warrants and covenants that:

- (a) the Consultant is a registrant for the purposes of the Goods and Services Tax (Canada) (GST);
- (b) if the Consultant is a non-resident of Canada as such term is defined in the Income Tax Act (Canada), then the Consultant authorizes the City to withhold such amounts as may be required by the Income Tax Act (Canada) from the fees payable pursuant to this Article 3; and
- (c) the Consultant shall pay any and all income taxes, good and services taxes, excise taxes, provincial sales taxes or other taxes as may be assessed or payable by law (collectively, the “**Taxes**”) upon the fees payable pursuant to this Agreement. The Consultant agrees to indemnify and save the City harmless from and against any and all claims, demands, suits, causes of action, losses, damages, liabilities and costs relating to, arising out of, or connected to, directly or indirectly, with the Consultant’s failure to pay or remit any Taxes.

## **ARTICLE 4 TERMINATION**

### **4.1 Termination and Suspension by the City**

- (a) The City may, without prejudice to any other right or remedy it may have, terminate or suspend the Agreement by written notice to the Consultant if:
- a. the Consultant becomes bankrupt or insolvent or is so adjudged;
  - b. the Consultant makes a general assignment for the benefit of creditors;
  - c. the Consultant's goods and chattels are liable to seizure by any secured party or lienholder;
  - d. a writ of execution, sequestration or extent issues against the goods or chattels of the Consultant;
  - e. the Consultant becomes the subject of any Act respecting liquidation or winding up;
  - f. the Consultant is in default of its obligations under the Agreement, fails to commence to remedy such default within thirty (30) days after the receipt of a notice of default and fails to diligently complete such remedy thereafter; or
  - g. the Consultant is practising as an individual and dies before the Services have been completed, then this Agreement shall terminate as of the date of death.
- (b) The City may also without cause and without prejudice to any other right or remedy it may have, terminate or suspend the Agreement upon 30 days prior written notice to the Consultant if:
- a. the City, in its sole discretion, determines that it is unwilling or unable to proceed with the Project or any related phase or element of the Project for any reason; or
  - b. the Consultant is practising as an individual and is unable to satisfactorily perform the Services for a period of 30 calendar days or for an aggregate of 45 calendar days in any 3 month period.
- (c) The City may without cause and at any time, terminate this Agreement by providing 60 calendar days prior written notice to the Consultant.

#### **4.2 Cessation of Services and Payments in Event of Termination by City**

If the City terminates the Agreement pursuant to section 4.1 herein:

- (a) the termination becomes effective upon written notice of termination being given to the Consultant;
- (b) upon receipt of written notice of termination, the Consultant shall perform no further Services other than those reasonably necessary to close out its Services; and

- (c) the City shall pay for the cost of the Services performed and for all disbursements incurred by the Consultant pursuant to this Agreement and remaining unpaid as of the effective date of such termination, subject to the maximum fee set out in Section 3.1 above.

### **4.3 Termination by Consultant**

The Consultant may, without prejudice to any other right or remedy it may have, terminate the Agreement by written notice to the City if:

- (a) the City is in default of its obligations under the Agreement, fails to commence to remedy such default within thirty (30) days after the receipt of a notice of default and fails to diligently complete such remedy thereafter; or
- (b) the Services are suspended by the City at any time for more than 30 calendar days through no fault of the Consultant.

### **4.4 Cessation of Services and Payments in Event of Termination by the Consultant**

If the Consultant terminates the Agreement pursuant to section 4.3 herein:

- (a) the termination becomes effective upon written notice of termination being given to the City;
- (b) upon provision of written notice of termination, the Consultant shall perform no further Services other than those reasonably necessary to close out its Services; and
- (c) the City shall pay for the cost of the Services performed and for all disbursements incurred by the Consultant pursuant to this Agreement and remaining unpaid as of the effective date of such termination.

### **4.5 Provision of Work Product to the City**

In the event that this Agreement is terminated or suspended for any reason pursuant to this Article 4, the Consultant shall provide the City with a copy of all Work Product developed to the date of termination within ten (10) days of the date of termination or suspension.

## **ARTICLE 5 INSURANCE AND INDEMNITY**

### **5.1 Insurance Requirements**

- (a) The Consultant shall obtain and keep in force the following insurance coverage during the term of this Agreement, and shall provide to the City from time to time at the City's request, a certificate of insurance as evidence that such insurance is in place.
- (b) Insurance obtained and provided under this Agreement in accordance with Section 5.1(a) shall include provision for the City to be given thirty (30) days written notice prior to cancellation, and thirty (30)

days prior notice of any material change requested by the successful Proponent of said insurance policies.

- (c) The Consultant covenants and agrees that the City's insurance requirements mentioned above will not be construed to and shall in no manner limit or restrict the liability of the Consultant.

## **5.2 Consultant Responsible for all Premiums**

The Consultant is solely responsible for full payment of any premium amounts and any deductible amounts which may be due in the event of any and all claims under policies required by this Agreement and shall provide the City with proof of the insurance required pursuant to this Agreement annually in a form satisfactory to the City.

## **5.3 Incident Notification**

The Consultant shall, within 7 days of becoming aware of an incident, notify the City of any incident that may result in a claim against either the Consultant or the City, including, but not limited to such losses as, property damage to City assets, third party property damage, injury or death of any Consultant member, employee, instructor or volunteer and any third party bodily injury.

## **5.4 Indemnification of the Consultant**

The City shall defend, indemnify and hold the Consultant, its associated, affiliated or subsidiary companies, and their respective officers, directors, employees, agents, engineers, contractors, subcontractors, successors and assigns free and harmless from and against any and all losses, claims, liens, demands, debts, liabilities, damages, losses, fines, actions, suits, penalties and causes of action including actual legal fees on a solicitor and client basis and disbursements and court costs arising from or related to the City's wrongful or negligent (including, grossly negligent) acts, errors or omissions in performance of the City's obligations under this Agreement. In cases of claims arising from joint negligence of the City and the Consultant, liability will be shared by the parties in proportion to their respective negligence.

## **5.5 Indemnification of the City**

The Consultant shall defend, indemnify and hold the City, its associated, affiliated or subsidiary companies, and their respective officers, directors, employees, agents, engineers, contractors, subcontractors, insurers, successors and assigns free and harmless from and against any and all losses, claims, liens, demands, debts, liabilities, damages, losses, fines, actions, suits, penalties and causes of action including actual legal fees on a solicitor and client basis and disbursements and court costs arising from or related to the Consultant's wrongful or negligent (including, grossly negligent) acts, errors or omissions in performance of the Consultant's obligations under this Agreement. In cases of claims arising from joint negligence of the City and the Consultant, liability will be shared by the parties in proportion to their respective negligence.

## **5.6 Limitation of Liability**

Regardless of any other provision of this Agreement, neither party shall be liable to the other party, whether due to breach of contract, tort, negligence, warranty, strict liability or otherwise, for consequential damages, including (without limitation) loss of profits, loss of revenue or loss of anticipated business suffered or incurred, except for any: (a) damages payable as liquidated damages as expressly provided for in this Agreement; (b) claims for indemnity provided in section 5.4 and section 5.5 and claims relating to any willful, wanton or intentional misconduct or the gross negligence of either party or anyone for whose acts any of them is liable.

## **ARTICLE 6 WORKERS' COMPENSATION**

### **6.1 Compliance with Workers' Compensation Legislation**

- (a) The Consultant shall have a health and safety program in place for its workers. The Consultant shall also maintain an account in good standing with the Workers' Compensation Board of Saskatchewan covering all workers who will be involved in the provision of Services.
- (a) The Consultant agrees to indemnify and save the City harmless if the City is required to pay any Workers' Compensation charges arising from the Consultant's provision of the Services, the provision of the Services by a subcontractor of the Consultant or if the City is held liable for any damages or injury to any employee, partner, or subcontractor of the Consultant while on City- controlled or City-owned property.

## **ARTICLE 7 ASSIGNMENT AND SUB-CONSULTING**

### **7.1 Prohibition on Assignment**

Neither the City nor the Consultant may assign this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

## **ARTICLE 8 RELATIONSHIP OF PARTIES**

### **8.1 Independent Contractor**

- (a) The Consultant's performance of this Agreement does not create an employee/employer relationship between the Consultant and the City. The Consultant and the City each agree that they are independent and each of them shall not state, imply or knowingly permit anyone to infer that any other relationship exists between them without the other party's prior written consent.
- (b) The Consultant acknowledges that:

- a. the consideration provided to the Consultant by the City under this Agreement is income and subject to the provisions of the Canadian Income Tax Act, the Canada Pension Plan, and the Employment Insurance Act;
- b. the Consultant is solely responsible for remitting any amounts that the statutes listed in clause (a) require to be remitted; and
- c. if a decision-maker of competent jurisdiction decides that the City ought to have remitted any amounts that the statutes in clause (a) require to be remitted, then the Consultant will pay the City an amount equal to the amount the City is required to remit and all the costs (including solicitor-client costs) that the City incurs as a result of the Consultant failing to remit the required amounts.

## **8.2 No Partnership or Joint Venture**

Nothing herein shall imply a relationship of employment, agency, association of persons, partnership or joint venture between the Consultant and the City. The Consultant shall not indicate or represent to any third party that the City is an employee or agent of the Consultant. The Consultant shall have no authority to commit the City to any third party. The Consultant shall be responsible for all business taxes, payroll remittances, benefits, assessments, remittances and all other applicable statutory payments and deductions for the Consultant, its employees, and all subcontractors, including any required federal and provincial withholding, self-employment and social security taxes, unemployment insurance, and worker's compensation insurance and assessments.

## **ARTICLE 9 CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTS**

### **9.1 City's Confidential Information**

The Consultant will:

- (a) keep strictly confidential any confidential information of the City, as identified by the City upon provision of such information (the "**City's Confidential Information**"), of which the Consultant (including the Consultant's individual partners, employees, contractors, and agents) obtains knowledge or to which it has access; and
- (b) within seven (7) days from the expiration or termination of this Agreement, or upon receiving a request from the City, the Consultant shall either, at the City's option, return to the City or destroy all of the City's Confidential Information and all other the City's information in the Consultant's possession or under its control, except that the Consultant may retain one copy of the City's Confidential Information for its internal, archival business purposes; and
- (c) ensure that its individual partners, employees and agents:
  - i. only have access to the City's Confidential Information or other information as is



strictly necessary for the performance of their particular role in performing the Consultant's covenants under this Agreement; and

ii. are aware of and comply with section 9.1 of this Agreement.

## **9.2 Freedom of Information and Protection of Privacy Act**

- (a) While The Local Authority Freedom of Information and Protection of Privacy Act ("LAFOIP") allows a person's right of access to records in the City's custody or control, it also prohibits the City from disclosing personal information about an individual in certain circumstances, or business information, if disclosure could reasonably be expected to cause harm as outlined in the Act. Because of the complexity of this Act, the Consultant acknowledges its obligation to consider the potential that any information that is provided to the City may be disclosed to a third party.
- (b) All information in the possession or control of the City, including any information provided, obtained or under the control of the City, is similarly subject to LAFOIP. Should the City receive a request for any records that are under the control of the City and in the Consultant's custody, the Consultant must provide the records, at the Consultant's expense, to the City.
- (c) Assessment criteria and allocation formulas are public information. Information regarding individual assessments is considered confidential and may be provided, upon request, to the party to whom it relates. Third parties will only be provided information in accordance with the provisions of LAFOIP.

## **9.3 Intellectual Property - Ownership and Use of Documents**

- (a) Save and except for any pre-existing Intellectual Property developed or owned by the Consultant and subject to Section 9.3(b), all Work Product prepared by the Consultant pursuant to this Agreement and for the Project are works for hire and are the City's sole property and as a result may become public information. The Consultant shall not permit the use or application of any Work Product for any purpose, other than for the Project, unless the City grants prior written consent. For greater certainty, the Consultant may not use the Work Product with other clients without the City's prior written consent. The Consultant may retain, in a secure location, one copy of the Work Product, solely for its records.
- (b) All concepts, products or processes developed by the Consultant in the provision of the Services that are capable of being patented or trademarked shall be the property of the Consultant. The Consultant agrees that it shall grant the City a permanent, non-exclusive, royalty-free licence to use any concept, product or process that is patented or trademarks in accordance with this section 9.3(b).
- (c) The Consultant shall do all things necessary to ensure the City's license to use Intellectual Property as described in Section 9.3(b) is forever free and clear of claims or limitations of any kind, and is fully secured and indisputable, including (without limitation) the obtainment of any waiver, assignment, or transfer.
- (d) The Consultant represents and warrants that the Services, any result of the Services, and all Intellectual Property licensed to the City under this Agreement does not, and will never constitute or result in any infringement or violation of any third party Intellectual Property right or related laws and shall indemnify and save harmless the City from all claims, demands, actions, costs,

expenses, judgments, losses or damages that may arise out of or result from the assertion by any person that any of the Services, their performance, their use or the use of the product or the Services or any portion of the Project designed as part of the Services, constitutes an infringement or violation of any industrial or intellectual property right protected by law including (without limitation) any patent, trademark, copyright or industrial design protection or any Applicable Laws.

## **ARTICLE 10 CONFLICT OF INTEREST**

### **10.1 Conflict of Interest**

- (a) The Consultant will not undertake other work that creates or might create a conflict of interest with the provision of the Services without the City's prior written consent.
- (b) The Consultant and the Consultant's employees, officer and directors will not serve as a member of any of the City's advisory committees or subcommittees during the term of this Agreement.
- (c) The Consultant acknowledges and agrees that it may be prevented from bidding on contracts in relation to a future development or services related to the Project as the consultant has been involved with, provided information for or has an advanced knowledge of the underlying specifications related to the procurement of such contracts.
- (d) The Consultant acknowledges and agrees that it is required during the term of this Agreement to disclose any potential conflict of interest to the City that may exist through past or present business relationships in respect to the Project with any member of a bid team or other interested parties, once such bidders and other interested parties have been identified. Any identified potential conflict of interest will be reviewed by the City and the Consultant shall take all steps required by the City to eliminate the actual or perceived conflict of interest. In the event that the conflict of interest is not able to be remedied, the City reserves the right to terminate this Agreement in accordance with section 4.2 herein.

## **ARTICLE 11 MISCELLANEOUS**

### **11.1 Further Assurances**

Each party upon the request of the other shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, documents, assignments, transfers, conveyances and assurances as may be reasonably necessary or desirable to effect complete consummation of the transactions contemplated by this Agreement.

### **11.2 Notices**

Any notice, consent, authorization, direction or other communication required or permitted to be given hereunder shall be in writing and shall be delivered either by personal delivery or by telex, telecopier or similar telecommunications device and addressed as follows:

**in the case of the City at:**

City of Moose Jaw  
228 Main Street N  
Moose Jaw, Saskatchewan  
S6H 3J8  
Attention: Michelle Sanson, Director of Planning and Development

**in the case of the Consultant, to it at:**

Any notice, consent, authorization, direction or other communication delivered as aforesaid shall be deemed to have been effectively delivered and received, if sent by telecopier, email or similar electronic device on the Business Day next following sending of such transmission or, if delivered, to have been delivered and received on the date of such delivery provided, however, that if such date is not a Business Day than it shall be deemed to have been delivered and received on the Business Day next following such delivery. Either party may change its address for service by notice delivered as aforesaid.

**11.3 Publicity and Communications**

The Consultant shall not make any public statements or release any information to the public through any means or medium in relation to the Agreement or its engagement by the City without first obtaining the City's prior written approval, such approval not to be unreasonably withheld or delayed.

**11.4 Entire Agreement**

This Agreement and the schedules, together with all agreements and other documents to be delivered pursuant to this Agreement, constitute the entire agreement between the parties pertaining to the subject-matter of this Agreement and supersedes all prior agreements understandings, negotiations and discussions, whether oral or written, of the parties, and, except as stated, contain all of the representations and warranties of the respective parties. This Agreement may not be amended or modified in any respect, except by written instrument executed by the parties.

**11.5 Time of Essence**

Time shall be of the essence of this Agreement.

**11.6 Restriction on Assignment**

This Agreement shall enure to the benefit of the parties hereto and their respective successors, administrators and (permitted) assigns. Neither party may assign this Agreement without the prior written consent of the

other, such consent to not be unreasonably withheld or delayed, provided however that this Agreement may be assigned by the City to any of its affiliates, associates, subsidiaries, partners and related entities.

### **11.7 Force Majeure**

If either party shall be unable to carry out any obligation under this Agreement due to Force Majeure, this Agreement shall remain in effect, but such obligation shall be suspended for the period necessary as a result of the Force Majeure, provided that:

- (a) the non-performing party gives the other party written notice not later than forty eight (48) hours after the occurrence of the Force Majeure describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and the expected duration of this disability, and continues to furnish timely regular reports with respect thereto during the period of Force Majeure and the disability;
- (b) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure; and
- (c) the non-performing party uses its best efforts to remedy its inability to perform.

Notwithstanding any of the foregoing, the settlement of strikes, lockouts, and other labour disputes shall be entirely within the discretion of the affected party, and such party shall not be required to settle any strike, lockout or other labour dispute on terms which it deems inadvisable.

### **11.8 Survival**

All representations, warranties and indemnities set out in this Agreement shall survive the termination or expiration of this Agreement.

### **11.9 Counterparts**

This Agreement may be executed in counterparts and such counterparts together shall constitute a single instrument. Delivery of an executed counterpart of this Agreement by electronic means, including, without limitation, by facsimile transmission or by electronic delivery in portable document format (“.pdf”), shall be equally effective as delivery of a manually executed counterpart thereof. The parties hereto acknowledges and agree that in any legal proceedings between them respecting or in any way relating to this Agreement, each waives the right to raise any defence based on the execution hereof in counterparts or the delivery of such executed counterparts by electronic means.

[remainder of page left intentionally blank]

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the day and year first above written.

1.                   **CITY OF MOOSE JAW** \_\_\_\_\_

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(position, please print)

\_\_\_\_\_  
Mayor

(seal)

(seal)

**Schedule "D" – Reference Documents**

Site catalogue (please note phase 1 and 2 as identified in this package has been changed, refer to the area map below for proposed phase 1).

Area map

Proposed Zoning Maps