

# ATTACHMENT 1 - AGREEMENT

This Agreement made as of [INSERT DATE AS MONTH DAY, YEAR].

BETWEEN:

**STRATHCONA COUNTY**  
(the "County")

-and-

**[INSERT LEGAL NAME OF SUPPLIER]**  
(the "Supplier")

THE PARTIES AGREE AS FOLLOWS:

## 1. DEFINITIONS

- 1.1 In this Agreement, all capitalized words and phrases used but not defined below have the meanings given in the schedules, including any schedules or sub-schedules identified in the schedules, to this Agreement.
- 1.2 In this Agreement, the following words and phrases have the following meanings:
- (a) "Effective Date" means the date on the top of the first page of this Agreement;
  - (b) "Expiry Date" means [insert month] [insert day], [insert year];
  - (c) "Service Schedule" means a document, generally in the form set out in Schedule "E" to this Agreement, issued by the County setting out the particular Deliverables required by the County, the Timetable for such Deliverables, and the Price for such Deliverables; and when signed by both the Supplier and the County, incorporates the terms and conditions of this Agreement and establishes a contract between the Supplier and the County for the delivery of the particular Deliverables described in the document; and
  - (d) "Term" means the period of time between the Effective Date and the Expiry Date.

## 2. SCHEDULES

- 2.1 The following schedules, including any schedules or sub-schedules identified in the schedules, are attached to and form part of this Agreement: Schedule "A" - Standard Terms; Schedule "B" - Changes to Standard Terms; Schedule "C" - Purchase Specific Information; Schedule "D" - Addenda; and Schedule "E" - Form of Service Schedule.

## 3. PARAMOUNTCY

- 3.1 The provisions of this Agreement and each Service Schedule are to be interpreted so as to give all provisions full meaning and effect, and in as much as possible in a compatible manner. If there is a conflict in the provisions, then the documents govern and take precedence in the following order: Service Schedule; this agreement form; Schedule "D"; Schedule "B"; Schedule "A"; and Schedule "C".

#### **4. TERM**

- 4.1 This Agreement commences on the Effective Date (regardless of the date or dates on which the parties sign this Agreement) and expires on the Expiry Date unless this Agreement is terminated earlier in accordance with the early termination provisions of this Agreement or is extended in accordance with section 4.2 or section 4.3 below. Each Service Schedule shall be effective for the period set out in that Service Schedule, and the terms and conditions of this Agreement shall continue to apply to the Service Schedule until the completion or termination of that Service Schedule.
- 4.2 If Deliverables to be provided by the Supplier under a Service Schedule entered into before the Expiry Date have not been provided or the County has not paid for such Deliverables before the Expiry Date, then the Expiry Date is hereby extended to the date that such Deliverables are provided by the Supplier and paid for by the County.
- 4.3 The Supplier grants to the County the irrevocable option to extend the Term up to 2 times on the same terms and conditions (with the exception of this option to extend) each for an additional period of up to 1 year, unless this Agreement is terminated before the Expiry Date. The County may exercise each option by giving written notice to the Supplier at least 30 days before the Expiry Date or expiry date of the extended Term (as applicable). If the County exercises this option, the time period covered by the extension is included in the Term.

#### **5. PROVISION OF DELIVERABLES**

- 5.1 If the County desires the Supplier to provide particular Deliverables to the County pursuant to the process set out in Sub-Schedule "C-2" to this Agreement, then both parties will enter into a Service Schedule in the form set out in Schedule "E". The County may update the form of the Service Schedule in its sole discretion. The Supplier shall not commence the performance of such Deliverables or any portion thereof until the County confirms receipt of such executed Service Schedule.
- 5.2 The provision of the Deliverables by the Supplier will be governed by the terms and conditions contained in this Agreement and in the Service Schedule.

***[remainder of this page left blank to leave room for signatures]***

**6. COUNTERPARTS AND ELECTRONIC SIGNATURE**

- 6.1 This Agreement may be signed in any number of counterparts, each of which shall be deemed an original for all purposes and all of which when taken together constitute one and the same instrument. A party may provide an electronic signature for this Agreement, which will be binding on such party.

THE PARTIES, BY THEIR RESPECTIVE AUTHORIZED SIGNATORIES, SIGN AND DELIVER THIS AGREEMENT AS FOLLOWS:

**[INSERT LEGAL NAME OF SUPPLIER]**

**STRATHCONA COUNTY**

**[INSERT APPROPRIATE SIGNATURE BLOCK IN ACCORDANCE WITH GUIDANCE FROM LLP-CONTRACT MANAGEMENT]**

| County Reference  |                                      |
|-------------------|--------------------------------------|
| Procurement No:   | 25.0110 Corporate Contract No: _____ |
| Department Notes: | Web User Experience Design _____     |

## **SCHEDULE "A"**

### **STANDARD TERMS**

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## ARTICLE 1 DEFINITIONS

1.1 In this Agreement, the following words and phrases have the following meanings:

- (a) "Agreement" means this agreement executed by the County and the Supplier including the agreement form, the schedules, and any schedules or sub-schedules identified in the schedules;
- (b) "Applicable Law" means all applicable: statutes, acts, bylaws, legislation, regulations, rules, codes, ordinances, decrees, directions, orders, injunctions, official plans, permits, licences, approvals, consents, certificates; requirements of any regional, national, and international trade agreements; and common law and decisions issued by any Authority;
- (c) "ATI Act" means the *Access to Information Act*, SA 2024, c A-1.4;
- (d) "Authority" means any authority, agency, board, committee, commission, department, designated officer, government, official, tribunal, or other regulatory or administrative body, whether federal, provincial, or municipal;
- (e) "Business Day" means every day except Saturdays, Sundays, statutory holidays in the Province of Alberta, days in lieu of holiday days as declared by the County, and any other day the County is not open for regular business;
- (f) "Business Hours" means from 08:30 until 16:30 Alberta time on a Business Day;
- (g) "Conflict of Interest" means any situation or circumstance where:
  - (i) in relation to any procurement process for the Deliverables, the Supplier had an unfair advantage or engaged in conduct, directly or indirectly, that may have given it an unfair advantage, including, but not limited to: (A) having, or having access to, information that was confidential to the County and was not available to other respondents to that procurement process; (B) communicating with any Person with a view to influencing preferred treatment in that procurement process; or (C) engaging in conduct that compromised or could be seen to have compromised the integrity of that procurement process; or
  - (ii) in relation to the performance of this Agreement, the Supplier's other commitments, relationship, or financial interests could or could be seen to: (A) exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgment; or (B) compromise, impair, or be incompatible with the effective performance of its obligations under this Agreement;
- (h) "County Confidential Information" means all information of the County that is of a confidential nature, including, but not limited to, the County's own and third party confidential information within the custody or control of the County, and information or records obtained by the Supplier for this Agreement, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed, or embodied, which is created or collected by the Supplier or otherwise comes into the knowledge, possession, or control of the

Supplier in connection with this Agreement. For greater certainty, County Confidential Information:

- (i) includes: (A) all new information derived at any time from any such information whether created or collected by the County, the Supplier, or any third party; and (B) all information that the County has the discretion to disclose under Applicable Law, including, but not limited to, Privacy Legislation; and
  - (ii) does not include information that: (A) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the County or to any third party; (B) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (C) the Supplier can demonstrate to have been rightfully known to or in possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (D) is independently developed by the Supplier; but such exclusions in no way limit the meaning of Personal Information or confidential third party or County business information or the obligations attaching thereto under this Agreement or Applicable Law;
- (i) "County Representative" means the individual set out in Schedule "C" or such other individual as advised by written notice by the County to the Supplier at any time and from time to time;
  - (j) "Deliverables" means the consulting services to be delivered to the County by the Supplier as set out in Schedule "C", and without limiting the preceding includes everything developed for or provided to the County by the Supplier in the course of performing under this Agreement or agreed to be provided to the County by the Supplier under this Agreement. Without limiting the generality of the foregoing, the Deliverables include but are not limited to any labour, goods, supplies, materials, products, equipment, and Intellectual Property that are necessary and can reasonably be understood or inferred to be included within the scope of this Agreement;
  - (k) "Dispute" means any dispute arising out of or in connection with this Agreement;
  - (l) "GST" means the federal goods and services tax or other applicable excise tax;
  - (m) "Industry Standards" means:
    - (i) the provision of any and all labour, suppliers, materials, products, equipment, goods, services, construction, and Intellectual Property that are necessary and can reasonably be understood or inferred to be included within the scope of this Agreement or customarily furnished by Persons providing Deliverables of the type under this Agreement in similar situations in Canada at the Effective Date;

- (ii) adherence to the standard of care customarily observed by Persons providing Deliverables of the type under this Agreement in similar situations in Canada at the Effective Date; and
  - (iii) adherence to commonly accepted norms of ethical business practices for similar situations in Canada at the Effective Date;
- (n) "Intellectual Property" means any intellectual, industrial, or other proprietary right of any type or form protected or protectable under Applicable Law or the laws of any foreign country or any political subdivision of any country, including, but not limited to, any intellectual, industrial, or proprietary rights protected or protectable by Applicable Law or in equity, including, but not limited to, copyright, industrial designs, moral rights, patents, trade secrets, and trademarks;
- (o) "Key Personnel" means the Supplier's Personnel that are primarily responsible for providing the Deliverables and that are identified in Schedule "C";
- (p) "Newly Created Intellectual Property" means Intellectual Property created by the Supplier during the provision of the Deliverables or the performance of its obligations under this Agreement;
- (q) "Person" means, as the context allows, an individual, partnership, association, corporation, firm, trustee, executor, administrator, or other person or legal representative or a person, or any combination of them;
- (r) "Personal Information" has the same meaning as it does in Privacy Legislation, and without limiting the preceding includes recorded information about an identifiable individual and any information that may identify an individual if combined with other recorded information;
- (s) "Personnel" means a party's elected officials, directors, officers, employees, agents, partners, representatives, students, volunteers, and subcontractors;
- (t) "POP Act" means the *Protection of Privacy Act*, SA 2024, c P-28.5;
- (u) "Price" means the amount to be paid by the County to the Supplier for the provision of the Deliverables in accordance with this Agreement as set out in Schedule "C", subject to any adjustments, additions, and deductions provided for in this Agreement;
- (v) "Privacy Legislation" means collectively the ATI Act and the POP Act;
- (w) "Record" has the same meaning as it does in Privacy Legislation and, without limiting the preceding includes recorded information in any form: provided by the County to the Supplier, or provided by the Supplier to the County, for the purposes of this Agreement; or created or collected by the Supplier in the performance of this Agreement;
- (x) "Supplier Intellectual Property" means Intellectual Property owned by the Supplier prior to the Effective Date or created by the Supplier during the Term

independently of the provision of the Deliverables and performance of its obligations under this Agreement;

- (y) "Supplier Representative" means the individual set out in Schedule "C" or such other individual as advised by written notice by the Supplier to the County at any time and from time to time;
- (z) "Timetable" means the schedule detailing the timing of the performance by the Supplier of the Deliverables in accordance with this Agreement, as set out in Schedule "C", subject to any adjustments provided for in this Agreement;
- (aa) "WCB" means The Workers' Compensation Board - Alberta; and
- (bb) "Workers' Compensation Act" means the *Workers' Compensation Act*, RSA 2000, c W-15.

## **ARTICLE 2 INTERPRETATION**

- 2.1 **Headings:** The division of this Agreement into articles and sections, and the insertion of headings, are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- 2.2 **References to Statutes and Bylaws:** References to statutes and bylaws in this Agreement are references to the statutes or bylaws including any amendments and replacement statutes and bylaws, and regulations and orders under them, then in effect.
- 2.3 **Currency:** Unless otherwise indicated, all dollar amounts referred to in this Agreement are in Canadian currency.
- 2.4 **GST:** Unless otherwise indicated, the Price, and any other amounts set out in this Agreement that make up the Price or a part of it, exclude GST.

## **ARTICLE 3 EARLY TERMINATION AND BREACH OF THIS AGREEMENT**

- 3.1 The express rights of termination in this article are in addition to and without prejudice to any other right, power, or remedy available to the parties under this Agreement, under Applicable Law, or in equity.
- 3.2 The County may terminate this Agreement without cause and for the County's convenience by giving the Supplier at least 30 days prior written notice. In the event of such termination for convenience, the County shall pay the Supplier for all amounts owing up to the effective date of termination, plus any reasonable cancellation costs incurred directly by the Supplier as a result of the termination, and the Supplier shall have no further claims against the County, including for any loss of profit, arising from the termination. Such payment by the County is subject to the County's legal and equitable rights and obligations including the County's right to hold back, withhold, set off, audit, contest, or dispute all or a part of an invoice, as provided for in this Agreement and Applicable Law.
- 3.3 The County may immediately terminate this Agreement upon giving the Supplier written notice where:



- (a) the County determines, in its sole discretion, that the statements made or information provided in the Supplier's response to any procurement process for the Deliverables were false or contained misrepresentations;
  - (b) the Supplier is insolvent, adjudged bankrupt, seeks a protection order under any bankruptcy or insolvency law, makes a general assignment for the benefit of its creditors, ceases or appears to have ceased operations, or a receiver is appointed because of the Supplier's insolvency;
  - (c) the Supplier breaches any provision of article 6;
  - (d) the Supplier breaches any provision of article 7 or a Conflict of Interest cannot be resolved to the satisfaction of the County;
  - (e) the Supplier breaches any provision of article 8 or the Supplier undergoes a change in control which adversely affects the Supplier's ability to satisfy some or all of its obligations under this Agreement;
  - (f) the Supplier breaches any provision of article 9; or
  - (g) the Supplier breaches any provision of article 24.
- 3.4 Where a party has committed a material breach of this Agreement, the other party may issue a rectification notice to the breaching party that details the breach and prescribes the manner and timeframe for rectification of the breach. For clarity, this does not prevent the County from exercising its right to terminate this Agreement in accordance with section 3.2 or section 3.3.
- 3.5 Within 7 days of receipt of the rectification notice, the breaching party shall either comply with that rectification notice or provide an alternative manner and timeframe for rectification of the breach to the satisfaction of the other party.
- 3.6 If the breaching party fails to comply with a rectification notice pursuant to section 3.5, the other party may immediately terminate this Agreement upon giving the breaching party written notice. If the breaching party fails to comply with the satisfactory alternative manner and timeframe for rectification of the breach provided pursuant to section 3.5, the other party may immediately terminate this Agreement upon giving the breaching party written notice.
- 3.7 Failure by the County to pay the amounts due and payable to the Supplier in accordance with this Agreement (which, for clarity, requires the County to make such payment subject to its legal and equitable rights and obligations including the County's right to hold back, withhold, set off, audit, or contest all or a part of an invoice of the Supplier, as provided for in this Agreement) is considered a material breach of this Agreement unless the County has advised the Supplier that the amount of the Supplier's invoice for which payment is requested is disputed by the County.
- 3.8 In addition to the Supplier's other obligations under this Agreement and under Applicable Law, in the event of termination of this Agreement and at the request of the County, the Supplier shall:

- (a) provide to the County any completed or partially completed Deliverables;
- (b) provide to the County a report detailing the current state of the provision of the Deliverables by the Supplier at the date of termination, and any other information requested by the County pertaining to the provision of the Deliverables and the performance of this Agreement by the Supplier;
- (c) execute documentation to give effect to the termination of this Agreement; and
- (d) comply with instructions provided by the County, acting reasonably, including, but not limited to, instructions for facilitating the transfer of the Supplier's obligations to another Person.

This section survives the expiration or termination of this Agreement.

- 3.9 In the event of termination of this Agreement, the County is only responsible to pay for the Deliverables provided under this Agreement by the Supplier up to and including the effective date of termination, and the County may hold back payment or set off against any payments owed to the Supplier if the Supplier fails to comply with its obligations on termination set out in this Agreement. The County is not required to make any payment earlier than would otherwise be required under this Agreement. This section survives the expiration or termination of this Agreement.

#### **ARTICLE 4 REPRESENTATIONS, WARRANTIES, AND ACKNOWLEDGEMENTS**

- 4.1 The County makes no representation or warranty regarding the exclusivity or volume of the Deliverables required under this Agreement.
- 4.2 The Supplier acknowledges that it is providing the Deliverables to the County on a non-exclusive basis, and that the County may internally provide or may enter into agreements with other Persons for the provision of goods, services, or construction that are the same or similar to the Deliverables.
- 4.3 The County acknowledges that the Supplier may accept work from the County or from other Persons during the Term.
- 4.4 The Supplier represents and warrants to the County that the Supplier:
- (a) has the right, capacity, and authority to enter into this Agreement;
  - (b) is in compliance with all Applicable Law that affects the Supplier or that is related to the conduct of the Supplier's business;
  - (c) has all required permits, licences, approvals, consents, and certificates required or necessary to perform its obligations under this Agreement, including those required to be held by the Key Personnel, and that there are not any proceedings whatsoever, actual or pending, concerning the cancellation, extension, or otherwise relating to the said permits, licences, approvals, consents, and certificates;

- (d) does not have knowledge of any agreement with any other Person or impediment which would in any way interfere with the Supplier's ability to comply with this Agreement or with the rights of the County under this Agreement;
  - (e) does not have knowledge of any actual or potential Conflict of Interest that would impede, inhibit, prevent, or prohibit the Supplier from complying with this Agreement or that would reasonably cause the County to decline to enter into or to terminate this Agreement; and
  - (f) does not have knowledge of any actual or apprehended causes of action, actions, claims, demands, lawsuits, or other proceedings that would impede, inhibit, prevent, or prohibit the Supplier from complying with this Agreement.
- 4.5 The Supplier represents and warrants to the County that any goods provided to the County as part of the Deliverables shall be fit for purpose, free of defects in workmanship and design, of merchantable quality, and free from liens and encumbrances or actual or reasonably apprehended third party claims.

## **ARTICLE 5 GENERAL OBLIGATIONS**

- 5.1 The Supplier shall immediately notify the County of:
- (a) any contradictions, conflicts, discrepancies, errors, or omissions in this Agreement of which the Supplier is or becomes aware;
  - (b) any supplementary details, instructions, or directions received by the Supplier that do not correspond with this Agreement; and
  - (c) any omissions or other faults that become evident to the Supplier and that should be corrected in order for the Supplier to provide the Deliverables in accordance with this Agreement and Applicable Law.
- 5.2 The Supplier shall deliver the Deliverables and perform its obligations under this Agreement in full compliance with this Agreement, Industry Standards, Applicable Law, and applicable County policies. Immediately upon request by the County, the Supplier shall provide evidence to the County, to the satisfaction of the County, that the Supplier has and is delivering the Deliverables and performing its obligations in full compliance with this Agreement.
- 5.3 The Supplier shall ensure that the Deliverables are provided fully and diligently in a professional and competent manner by Persons qualified and skilled in their occupations.
- 5.4 The Supplier shall obtain and maintain all required permits, licences, approvals, consents, and certificates required or necessary to perform its obligations under this Agreement, including, but not limited to, those mandatory credentials set out in Schedule "C". Immediately upon request by the County, the Supplier shall provide evidence to the County, to the satisfaction of the County, of the Supplier's compliance with this section.
- 5.5 In addition to and without limiting the Supplier's liabilities under this Agreement, under Applicable Law, or in equity, the Supplier is liable for the acts, errors, and omissions of the Supplier and the Supplier's Personnel. The Supplier shall advise the Supplier's

Personnel of their obligations under this Agreement and shall ensure their compliance with the applicable terms of this Agreement. Without limiting the generality of the foregoing, the Supplier shall be liable for all losses, costs, damages, disbursements and expenses (including reasonable consulting, expert, and legal fees actually incurred on a solicitor and own client basis), causes of action, actions, claims, demands, lawsuits, or other proceedings, in any way based upon, occasioned by, or attributable to any act, error, or omission of the Supplier's Personnel. This section survives the expiration or termination of this Agreement.

- 5.6 The Supplier acknowledges that unless it obtains specific written preauthorization from the County or is otherwise authorized under this Agreement, any access to or use of the County's property, technology, or information that is not necessary for the performance of this Agreement is strictly prohibited.
- 5.7 At any time and from time to time, the County may request updates, information, and documents in relation to the Deliverables, and the Supplier shall promptly provide any such requested updates, information, and documents.
- 5.8 If any of the Deliverables, in the opinion of the County, are deficient or defective, the County may issue a rectification notice to the Supplier that details the deficient or defective Deliverables. Upon receipt of the rectification notice, the Supplier shall forthwith replace such Deliverables or make the necessary correction or remediation to such Deliverables. The express rights of the County in this section are in addition to any other right, power, or remedy available to the County in this Agreement, under Applicable Law, or in equity.

#### **ARTICLE 6 PROMOTION RESTRICTIONS**

- 6.1 Unless the Supplier has obtained the prior written consent of the County, the Supplier may not promote its relationship with the County by publishing or marketing its involvement in providing the Deliverables, either directly or indirectly, verbally or in writing. Despite the foregoing, the Supplier may identify the County as a current or prior customer for the purposes of responding to procurement opportunities.
- 6.2 All publicity, announcements, press releases, and publications concerning this Agreement or the Deliverables are at the sole discretion of the County. The County may, in its sole discretion, acknowledge that the Supplier shall provide or has provided the Deliverables in any such publicity, announcement, press release, or publication.

#### **ARTICLE 7 CONFLICT OF INTEREST**

- 7.1 The Supplier shall avoid any Conflict of Interest in the performance of its obligations under this Agreement, immediately give notice to the County of any actual or potential Conflict of Interest that the Supplier becomes aware of or that arises during the Term, and comply with any requirements prescribed by the County to resolve any Conflict of Interest.

#### **ARTICLE 8 CHANGE IN LEGAL OR FINANCIAL STATUS**

- 8.1 The Supplier shall immediately give notice to the County if the Supplier is insolvent, is adjudged bankrupt, is seeking a protection order under any bankruptcy or insolvency law, makes a general assignment for the benefit of creditors, or if a receiver is appointed for the Supplier because of the Supplier's insolvency. The Supplier shall immediately give notice to the County of any change in control of the Supplier. The Supplier shall

immediately comply with any requirements prescribed by the County with respect to the performance of the Deliverables resulting from notice given by the Supplier in accordance with this section.

## **ARTICLE 9           CONFIDENTIALITY, PRIVACY LEGISLATION, DOCUMENT RETENTION, AND AUDIT**

9.1     The provisions of this article survive the expiration or termination of this Agreement.

9.2     The Supplier acknowledges that Privacy Legislation applies to and governs all Records and Privacy Legislation may require the disclosure of such Records to third parties. Without limiting the generality of the foregoing, the Supplier further acknowledges that any confidential information provided to the County by the Supplier may be disclosed by the County where it is permitted or obligated to do so under Privacy Legislation or by an order of a court or tribunal of competent jurisdiction or as permitted or required by Applicable Law, and despite any inconsistent provisions in this Agreement.

9.3     The Supplier shall:

- (a)     keep County Confidential Information confidential;
- (b)     keep County Confidential Information and Records secure;
- (c)     ensure the security and integrity of County Confidential Information and Records and keep it in a secure location safe from loss, alteration, destruction, or intermingling with other records and databases and to implement, use, and maintain the most appropriate products, tools, measures, and procedures to do so;
- (d)     implement other specific security measures that in the reasonable opinion of the County would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of County Confidential Information and Records generally;
- (e)     access, collect, destroy, disclose, exploit, or use the Records containing County Confidential Information only in the manner authorized by the County;
- (f)     not directly or indirectly access, collect, destroy, disclose, exploit, or use any County Confidential Information unless the Supplier:
  - (i)     has obtained the prior written consent of the County, and in respect of any County Confidential Information about any third party the Supplier has also obtained the prior written consent of such third party; or
  - (ii)    is obligated to do so by order of a court or tribunal of competent jurisdiction, and in such event the Supplier shall:
    - (A)     immediately notify the County upon the Supplier learning of such obligation in order to allow the County to seek protective orders or other appropriate remedies to prevent or limit such disclosure;

- (B) cooperate with the County to the fullest extent to ensure any related notices or proceedings are addressed expeditiously; and
    - (C) disclose only that portion of County Confidential Information that the Supplier is legally compelled to so disclose, and on notice of the confidentiality of any Records legally disclosed;
  - (g) restrict access to and limit the disclosure of County Confidential Information to only those of the Supplier's Personnel who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized by the County to have such access for the purpose of providing the Deliverables;
  - (h) not copy or reproduce any County Confidential Information, in whole or in part, unless copying or reproduction is for backup copies of electronic data or is determined by the County to be essential for providing the Deliverables and any such copy or reproduction must be a true copy of the original;
  - (i) provide County Confidential Information to the County immediately upon being directed to do so by the County for any reason; and
  - (j) provide Records to the County within 7 days of being directed to do so by the County for any reason including an access request or privacy issue.
- 9.4 The Supplier shall immediately notify the County upon the discovery of loss, or of unauthorized access, collection, destruction, disclosure, exploitation, or use, of Personal Information or County Confidential Information.
- 9.5 The Supplier acknowledges that reasonably apprehended actual or potential breach of the Supplier's confidentiality or Privacy Legislation responsibilities to the County under this Agreement may cause irreparable harm to the County and to any third party to whom the County owes a duty of confidentiality, and that the injury to the County or to any third party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that in relation to such circumstances the County is entitled to seek injunctive relief for a potential or actual breach of confidentiality or Privacy Legislation, and that inasmuch as possible without compromising its legal or equitable rights, remedies, and defences, the Supplier shall cooperate with the harmed party to mitigate or remediate any loss or damages arising in relation to such circumstance.
- 9.6 On or before the expiration or termination of this Agreement, the Supplier shall deliver at least one copy of all County Confidential Information to the County and destroy all other copies of all County Confidential Information. For greater clarity, the Supplier shall not keep any copy or portion of the County Confidential Information following the expiration or termination of this Agreement. Despite the foregoing, if a copy of all or a portion of the County Confidential Information is required to be kept by the Supplier to satisfy professional requirements, then the Supplier may keep one such copy only for such purpose.
- 9.7 Following the expiration or termination of this Agreement, unless otherwise directed by the County, the Supplier:

- (a) shall retain for a period of 7 years from the date on which this Agreement expires or terminates all necessary records to substantiate all invoices delivered and payments made under this Agreement and to substantiate that the Deliverables were provided in accordance with this Agreement and Applicable Law; and
  - (b) shall either:
    - (i) deliver such records to the County with no copy or portion kept by the Supplier except for any copy or portion that must be kept to satisfy professional requirements, legal requirements, or internal business requirements of the Supplier; or
    - (ii) retain such records for a period of 7 years from the date on which this Agreement expires or terminates, and then upon the expiry of such period the Supplier shall securely destroy such records except for any copy or portion that must be kept to satisfy professional requirements, legal requirements, or internal business requirements of the Supplier.
- 9.8 During the Term and for a period of 7 years from the date on which this Agreement expires or terminates, the Supplier shall permit and assist the County in conducting audits of the operations of the Supplier to verify all invoices delivered and payments made under this Agreement and to verify that the Deliverables were provided in accordance with this Agreement and Applicable Law. The County shall provide the Supplier at least 14 days prior written notice of its requirement for such audit. This section survives the expiration or termination of this Agreement.

## **ARTICLE 10 INTELLECTUAL PROPERTY**

- 10.1 The provisions of this article survive the expiration or termination of this Agreement.
- 10.2 Except for the purposes of providing the Deliverables, the Supplier shall not use the Intellectual Property owned by the County or licensed to the County nor shall it use the County's logo, insignia, name, domain name, or website address, without the prior written consent of the County which may be arbitrarily and unreasonably withheld.
- 10.3 The County retains all legal, equitable, and statutory right, title, and interest in and to all Intellectual Property and Records relating thereto, including concepts, techniques, ideas, images, data, information, and materials, however recorded, provided by the County to the Supplier, and without limiting the preceding the same remains the sole property of the County.
- 10.4 Subject to the following section, the County shall be the sole legal and beneficial owner of any Newly Created Intellectual Property and the Supplier irrevocably assigns it to the County, and the County accepts all legal, equitable, and statutory right, title, and interest in and to all Newly Created Intellectual Property created for and included in the Deliverables immediately following their creation. The Supplier hereby irrevocably waives in favour of the County for all time all rights of integrity and other moral rights to all Newly Created Intellectual Property created for and included in the Deliverables. The Supplier shall obtain an irrevocable waiver in favour of the County for all time all rights of integrity and other moral rights to all Newly Created Intellectual Property created for and included in the Deliverables from the Supplier's Personnel and any Person that has such rights of integrity or other moral rights to such Newly Created Intellectual Property.

- 10.5 If the Newly Created Intellectual Property includes, in whole or in part, the Supplier Intellectual Property, then:
- (a) the County shall not become the sole legal and beneficial owner of such Supplier Intellectual Property; and
  - (b) the Supplier hereby grants to the County a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, and fully paid up right and licence:
    - (i) to use, modify, reproduce, and distribute, in any form, that Supplier Intellectual Property that is included in the Newly Created Intellectual Property; and
    - (ii) to authorize other Persons to do any of the former on behalf of the County.
- 10.6 If the Deliverables include, in whole or in part, the Supplier Intellectual Property, then:
- (a) the County shall not become the sole legal and beneficial owner of such Supplier Intellectual Property; and
  - (b) the Supplier hereby grants to the County a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, and fully paid up right and licence:
    - (i) to use, modify, reproduce, and distribute, in any form, that Supplier Intellectual Property that is included in the Deliverables; and
    - (ii) to authorize other Persons to do any of the former on behalf of the County.
- 10.7 Any reuse for a purpose other than that for which the Deliverables were created or the modification of the Deliverables by the County without the consent of the Supplier, or any Person that obtains the Deliverables from or through the County, is at the sole risk of that Person, and the Supplier is not liable for any claims, liabilities, or costs arising from or in connection with such reuse or modification.
- 10.8 The Supplier shall not incorporate into the Deliverables anything that would restrict the right of the County to modify, further develop, or otherwise use the Deliverables in any way that the County deems necessary or beneficial, or that would prevent the County from entering into any agreement with any contractor other than the Supplier for the modification, further development of, maintenance, servicing, or other use of the Deliverables.
- 10.9 The Supplier represents and warrants that the provision of the Deliverables shall not infringe or induce the infringement of the Intellectual Property rights of any Person and that the Supplier has a perpetual, world-wide, irrevocable, and transferable right and licence to use the same for any purpose including use for or as part of the Deliverables.

## **ARTICLE 11 INDEMNITIES**

- 11.1 The provisions of this article survive the expiration or termination of this Agreement.



- 11.2 Despite anything else in this Agreement, any express or implied reference to the County providing an indemnity in favour of the Supplier or any other Person, whether at the time of entering into this Agreement or at any other time during the Term, are void and of no legal effect.
- 11.3 The Supplier indemnifies and holds harmless (but does not defend) the County and the County's Personnel from and against any and all liability for losses, costs, damages, disbursements and expenses (including reasonable consulting, expert, and legal fees actually incurred on a solicitor and own client basis), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, including for breaches of confidentiality or privacy or Intellectual Property rights or for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by, or attributable to any negligent acts, errors, or omissions by or caused by the Supplier and the Supplier's Personnel in the course of the performance of the Supplier's obligations under, or otherwise in connection with, this Agreement.

## **ARTICLE 12 INSURANCE**

- 12.1 The Supplier shall put in effect and maintain commercial general liability insurance for bodily injury, personal injury, death, and property damage to third parties. Such insurance must:
- (a) be in an amount of not less than \$5,000,000.00 per occurrence, and if a general aggregate limit applies then the stated limit must apply separately to this Agreement;
  - (b) have the County, and the County's elected officials, employees, and volunteers, included as additional insureds with respect to liability arising in the course of performance of the Supplier's obligations under, or otherwise in connection with, this Agreement;
  - (c) be primary insurance in relation to the County, and any other insurance or self-insurance maintained by the County does not contribute to such primary insurance; and
  - (d) contain or be endorsed to contain:
    - (i) a provision requiring 30 days written notice to the County in advance of cancellation or termination;
    - (ii) blanket contractual liability including for this Agreement;
    - (iii) products and completed operations liability;
    - (iv) contingent employer's liability;
    - (v) cross liability or severability of interests in favour of the County;
    - (vi) if motor vehicles not owned by the Supplier are used in the performance of this Agreement, then non-owned automobile liability;
    - (vii) waiver of any right of subrogation which any insurance provider of the Supplier may acquire against the County by virtue of payment of any loss by such insurance provider under this insurance policy; and
    - (viii) a provision that rights of the County under any provision of this insurance policy will not be prejudiced by any default or violation by the Supplier or by any other Person insured by this insurance policy.

- 12.2 If vehicles are used in the performance of this Agreement by or on behalf of the Supplier, then the Supplier shall put in effect and maintain standard automobile liability insurance for bodily injury, personal injury, death, and property damage to third parties caused by such vehicles. Such insurance must be in an amount of not less than \$2,000,000.00 per occurrence and must be endorsed to contain a provision requiring 30 days written notice to the County in advance of cancellation or termination.
- 12.3 If the Supplier is providing, or causing to be provided, professional services under this Agreement, then the Supplier shall put in effect and maintain professional liability (errors and omissions) insurance that covers losses arising out of or in association with an error or omission in the rendering or of failure to render the Deliverables. Such insurance must be in an amount of not less than \$2,000,000.00 per claim and must be endorsed to contain a provision requiring 30 days written notice to the County in advance of cancellation or termination. In addition to the obligation to put in effect and maintain such insurance during the Term, the Supplier shall also maintain such insurance for a period of 2 years following the expiration or termination of this Agreement. In the event such insurance coverage is cancelled within such 2 year period, then the Supplier shall provide, or shall cause its insurer to provide, the County with 30 days written notice in advance of such cancellation and if required by the County the Supplier must purchase an extended reporting endorsement to confirm that coverage is maintained.
- 12.4 The Supplier:
- (a) shall put in effect and maintain such other and further insurance policies and in such amounts as would typically be put in effect and maintained by a reasonable supplier providing deliverables similar to those being delivered by the Supplier pursuant to this Agreement;
  - (b) shall obtain the insurance required by this Agreement from an insurance provider authorized to sell insurance in the Province of Alberta and acceptable to the County in its sole discretion;
  - (c) shall provide 30 days written notice to the County in advance of any cancellation, termination, material change, or reduction in policy limits for the insurance required by this Agreement. For clarity, this obligation of the Supplier is in addition to any notice provided by the Supplier's insurer related to cancellation or termination;
  - (d) may satisfy the minimum amounts of insurance required by this Agreement through a combination of primary, excess, or umbrella insurance (with coverage no more restrictive than the underlying insurance);
  - (e) acknowledges and agrees that the limits of insurance coverage stated in this Agreement do not directly or impliedly establish limits of liability, and the Supplier remains liable for any and all loss or damages attributable to the Supplier as provided for under this Agreement regardless of the presence or absence of insurance coverage in relation to the event or occurrence;
  - (f) shall deliver to the County, at the commencement of this Agreement, on or before the expiry and renewal of any insurance coverage, and at any time and

from time to time as requested by the County, proof of the insurance required by this Agreement in the form of valid certificates of insurance, or such other proof of coverage as may be acceptable to the County, that reference and confirm the insurance coverage required under this Agreement; and

- (g) in the event of a loss or claim in respect of which the County is an additional insured under the Supplier's insurance policy, shall make available to the County, subject to a confidentiality agreement if so required by the Supplier, a copy of each applicable insurance policy within 7 days of the County's written request.

## **ARTICLE 13      WORKERS' COMPENSATION**

- 13.1 The Supplier shall comply with, and shall cause each of its subcontractors to comply with, the Workers' Compensation Act.
- 13.2 Immediately upon each request by the County, the Supplier shall provide evidence to the County, to the satisfaction of the County, of compliance of the Supplier and any of its subcontractors with the Workers' Compensation Act.
- 13.3 Unless exempted from such requirement under the Workers' Compensation Act or otherwise directed by the County, the Supplier shall maintain, and shall cause each of its subcontractors to maintain, an account in good standing with the WCB. The Supplier's account shall, and the Supplier shall ensure the accounts of each of its subcontractors shall, include coverage for any of its directors, partners, or owners who will be present or may have cause to be present at the location where work for the Deliverables is taking place. The Supplier's account must include coverage for any proprietors who will be present or may have cause to be present at the location where work for the Deliverables is taking place.
- 13.4 At the commencement of this Agreement and immediately upon each request by the County, the Supplier shall provide evidence to the County, to the satisfaction of the County, that the Supplier and each of the Supplier's subcontractors has an account in good standing with the WCB or is an exempt industry or does not qualify for such coverage under the Workers' Compensation Act and has added employer's liability to its commercial general liability insurance policy, or has equivalent and applicable coverage from another Canadian workers' compensation board to the satisfaction of the County.
- 13.5 If at any time the County receives advice from the WCB to the effect that the account of the Supplier or any of its subcontractors have ceased to be in good standing, or that there are amounts which the Supplier or any of its subcontractors owe to the WCB, by reason of any act or omission of the Supplier or any of its subcontractors or of any order made by the WCB, or if the County receives a demand for payment from the WCB by reason of any act or omission of the Supplier or any of its subcontractors under the Workers' Compensation Act, the County may suspend payments due to the Supplier under this Agreement until the Supplier has obtained and submits to the County a clearance letter from the WCB indicating that the Supplier or its subcontractor, as the case may be, no longer owes monies to the WCB or has otherwise been brought into good standing with the WCB.

## **ARTICLE 14      HEALTH AND SAFETY**

- 14.1 The Supplier shall abide by, and shall cause the Supplier's Personnel to abide by, all applicable health and safety recommendations, directives, and orders from Alberta

Public Health authorities as well as all applicable policies, administrative procedures, and other rules and directions of the County with respect to the performance of the Deliverables and the use of or attendance at any County facility. The Supplier acknowledges and agrees that such policies, administrative procedures, rules, and directions of the County may be more stringent than required by Alberta Public Health authorities. Failure by the Supplier to comply with any such requirement is a material breach of this Agreement, and the County may issue a rectification notice in accordance with this Agreement.

#### **ARTICLE 15      COUNTY REPRESENTATIVE AND SUPPLIER REPRESENTATIVE**

- 15.1 The County Representative represents the County in relation to this Agreement, and the Supplier Representative represents the Supplier in relation to this Agreement.
- 15.2 During the Term, the County Representative and the Supplier Representative may communicate with each other personally, by telephone, or by electronic mail.
- 15.3 Any instructions given by the County Representative to the Supplier Representative are deemed to have been given by the County to the Supplier.
- 15.4 The Supplier shall follow any instructions given to the Supplier by the County Representative or the County with respect to the performance of the Deliverables.

#### **ARTICLE 16      PERSONNEL AND KEY PERSONNEL**

- 16.1 The Supplier shall ensure that its Personnel that provide any part of the Deliverables are competent and qualified to provide such Deliverables.
- 16.2 The Supplier shall ensure that during the Term its Personnel maintain all required mandatory credentials, permits, licences, approvals, consents, and certificates required or necessary to provide the Deliverables under this Agreement. Immediately upon request by the County, the Supplier shall provide evidence to the County, to the satisfaction of the County, of the Supplier's compliance with this section.
- 16.3 Unless the Supplier has obtained the prior written consent of the County, which may not be unreasonably withheld, the Supplier shall not: change any of the Persons identified as Key Personnel; or change the role in providing the Deliverables of any Key Personnel from the description of such roles set out in Schedule "C".
- 16.4 In the event the Supplier desires to change any of the Persons identified as Key Personnel, the Supplier shall ensure that: the proposed replacement Person possesses the required mandatory credentials and similar or greater qualifications than the Person that is identified as a Key Personnel; and there is no increase in the Price due to the proposed replacement Person.

#### **ARTICLE 17      PRICE**

- 17.1 Notwithstanding anything else in this Agreement, the Price plus GST is the total amount to be paid by the County to the Supplier and the entire cost to the County for the provision of the Deliverables by the Supplier in accordance with this Agreement and the performance of this Agreement by the Supplier.

- 17.2 There shall be no other charges or amounts (including, but not limited to, administrative costs, travel expenses, delivery fees, or disbursements) payable by the County under this Agreement to the Supplier other than the Price established under this Agreement.
- 17.3 The County shall, subject to Supplier's compliance with this Agreement, pay the Supplier the Price plus GST in accordance with this Agreement.

## **ARTICLE 18 PAYMENT TERMS**

- 18.1 The Supplier shall deliver its invoice(s) for completed Deliverables to the County Representative in accordance with the prescribed timing for the Supplier's invoice(s) set out in Schedule "C". The date and time at which an invoice will be deemed to be delivered shall be determined in accordance with article 23.
- 18.2 On each invoice the Supplier shall state the Supplier's GST number, separately identify each item for which payment is requested and the amount of GST, and not impose any interest terms for unpaid amounts unless the Supplier has obtained the prior written consent of the County.
- 18.3 If requested by the County, for each invoice the Supplier shall provide supporting documentation for each item for which payment is requested.
- 18.4 In the event the Supplier includes interest terms for unpaid amounts on its invoices or otherwise imposes interest terms for unpaid amounts on the County without the prior written consent of the County, such interest terms are void and of no legal effect.
- 18.5 The County shall, subject to its legal and equitable rights and obligations including the County's right to hold back, withhold, set off, audit, or contest all or a part of an invoice of the Supplier, as provided for in this Agreement, pay the Price due and payable as set out on the Supplier's invoice to the Supplier within 30 days of receipt of the Supplier's invoice.
- 18.6 If the County contests all or a part of an invoice of the Supplier, the County may with written notice to the Supplier withhold payment for the contested portion of the Supplier's invoice until the Dispute in relation to the contested amount is resolved in the manner contemplated by this Agreement.

## **ARTICLE 19 LIENS AND ENCUMBRANCES**

- 19.1 The provisions of this article survive the expiration or termination of this Agreement.
- 19.2 The Supplier shall not in relation to the Deliverables or the performance of this Agreement by the Supplier permit any form of encumbrance, claim, charge, or interest to be registered against the County's property or location of Deliverables, including, but not limited to, builders' liens or construction liens or other forms of lien, writs, judgments, mortgages, personal property security, conditional sales claims, or amounts owed to any Authority.
- 19.3 Within 10 days of receiving notice from the County or otherwise becoming aware that an encumbrance, claim, charge, or interest has been registered against the County's property or location of Deliverables, the Supplier shall obtain a discharge of it and deliver proof of such discharge to the County.

- 19.4 If the Supplier refuses or fails to provide the County proof of discharge of any encumbrances, claim, charge, or interest as required by this article, the County may secure a discharge of such encumbrance, claim, charge, or interest, and securing such discharge is without prejudice to any other right, power, or remedy available to the County under this Agreement, under Applicable Law, or in equity. Any and all costs to the County related to securing such discharge (including, but not limited to, the amount of the claim, actual legal costs, actual costs for expert and professional fees, or any other actual expenses, charges, and disbursements incurred by the County in relation thereto) are deemed a debt immediately due and payable by the Supplier to the County without further notice, demand, or presentment. Without prejudice to any other right, power, or remedy available to the County under this Agreement, under Applicable Law, or in equity, the County may set off the amount of such debt against any amount owed by the County to the Supplier, as such may exist from time to time, until all amounts owing to the County have been completely set off.
- 19.5 If the Supplier wishes to challenge an encumbrance, claim, charge, or interest that the Supplier would otherwise be obligated to pay or discharge under this Agreement, the Supplier may, with the County's written consent and upon the Supplier paying security in an amount and form satisfactory to the County, proceed to challenge the encumbrance, claim, charge, or interest in a court or tribunal of competent jurisdiction, and the County shall forbear in its enforcement of its rights in relation to those amounts until the challenge and appeals are exhausted. An appeal period is deemed exhausted if the appeal period has run and the Supplier has not delivered to the County a filed copy of its appeal.

## **ARTICLE 20      HOLD BACKS, SET OFFS, WITHHOLDINGS, AND TAXES**

- 20.1 The provisions of this article survive the expiration or termination of this Agreement.
- 20.2 The Supplier is solely responsible for withholding and remitting any and all amounts due to any Authority. Without limiting the generality of the foregoing, the Supplier shall collect, remit, and pay all fees, costs, expenses, disbursements, charges, levies, taxes, and remittances related or incidental to the Supplier's provision of the Deliverables and compliance with this Agreement and Applicable Law, including, but not limited to, amounts for Canada pension plan, employment insurance, income tax, workers' compensation, GST, and withholding tax.
- 20.3 Without limiting any other provision in this Agreement, the County may hold back from or set off against any amount payable to the Supplier:
- (a) amounts as may be required or permitted by this Agreement;
  - (b) amounts as may be required or permitted by Applicable Law;
  - (c) the actual or reasonably estimated amounts required to correct any deficient or defective Deliverables not corrected or remediated by the Supplier;
  - (d) in the event the Supplier fails to comply with a rectification notice issued under this Agreement, the actual or reasonably estimated amounts required to comply with such rectification notice;

- (e) amounts claimed by third parties arising from or related to the delivery of the Deliverables or the performance by the Supplier of this Agreement, including, but not limited to, the Supplier's failure to pay for labour, supplies, materials, products, equipment, or Intellectual Property, (including the amount to discharge any lien or encumbrance registered against the County's property or location of Deliverables), as well as any amount necessary for the County to defend itself against such claim;
- (f) if the Supplier is not a Canadian resident for income tax purposes, an amount that is the greater of 15% of any amount payable to the Supplier and the amount required under Applicable Law; and
- (g) amounts claimed by any Authority for the Supplier's failure to remit statutory or other remittances in accordance with Applicable Law.

20.4 In the event the County withholds an amount in accordance with:

- (a) section 20.3(a), the County may use such amount for the purpose it was withheld and otherwise in accordance with this Agreement, and after that shall release any amount remaining to the Supplier;
- (b) section 20.3(b), the County may use and release such amount in accordance with Applicable Law;
- (c) section 20.3(c), the County may use such amount to correct any deficient or defective Deliverables not corrected or remediated by the Supplier, and after that shall release any amount remaining to the Supplier;
- (d) section 20.3(d), the County may use such amount to do all things necessary to comply with the rectification notice, and after that shall release any amount remaining to the Supplier;
- (e) section 20.3(e), the County may use such amount to satisfy such claims of third parties and any costs to the County related to such claims (including, but not limited to, actual legal costs, charges for expert and professional fees, or any other actual expenses, charges, and disbursements incurred by the County in relation thereto), and after that shall release any amount remaining to the Supplier;
- (f) section 20.3(f), the County shall remit to the appropriate Authority from such amount the amount required to be remitted to the Authority in accordance with Applicable Law, and after that shall release any amount remaining to the Supplier. The County shall deliver an official receipt for such withholding and remittance, and any other documents reasonably requested by the Supplier in order for the Supplier to claim a foreign tax credit or refund within the time period under Applicable Law. Despite anything else in this section, the County shall not withhold and remit as aforesaid if the County receives confirmation to the satisfaction of the County at least 30 days prior to the County remitting payment to the Authority that a waiver of Applicable Law requiring such hold back has been obtained by the Supplier from the Authority; and

- (g) section 20.3(g), the County may remit to the appropriate Authority from such amount the amount required to be remitted to the Authority in accordance with Applicable Law, and after that shall release any amount remaining to the Supplier.

In all such events such amounts constitute a payment of the Price to the Supplier by the County. In the event that the amount withheld or set off is less than the amount necessary to satisfy the purpose for such withholding or set off, then such deficiency is deemed a debt immediately due and payable by the Supplier to the County without further notice, demand, or presentment. The County may set off the amount of such debt against any amount owed by the County to the Supplier, as such may exist from time to time, until all amounts owing to the County have been completely set off.

## **ARTICLE 21      FORCE MAJEURE**

- 21.1 Neither party is liable for damages caused by delay or failure to perform its obligations under this Agreement (excepting its obligation to make any payment in accordance with this Agreement) where such delay or failure is caused by a force majeure event beyond its reasonable control. The parties agree that a force majeure event shall not be considered beyond a party's reasonable control if a reasonable businessperson applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in this Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such force majeure event.
- 21.2 Without limiting the generality of the foregoing section, the parties agree that force majeure events include natural disasters and acts of war, insurrection, and terrorism, but do not include events of inclement weather or shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Agreement due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance, and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds 21 days, the other party may immediately terminate this Agreement by giving written notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under this Agreement, under Applicable Law or in equity.

## **ARTICLE 22      DISPUTE RESOLUTION**

- 22.1 The provisions of this article survive the expiration or termination of this Agreement.
- 22.2 The parties shall make bona fide good faith efforts to resolve any Dispute by amicable negotiations and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate the resolution of any Dispute.
- 22.3 The parties may agree to have their amicable negotiations be in the form of mediation conducted with the assistance of an independent mediator acceptable to both parties. In such event, the parties shall agree to the fees to be paid to the mediator prior to the mediation and each party shall pay an equal share of the cost of the mediation.
- 22.4 Nothing in this article limits the right of either party to seek appropriate remedies, including seeking immediate injunctive relief as necessary to preserve the status quo or to prevent irreparable harm pending resolution of a Dispute.



- 22.5 The Supplier shall not delay the delivery of the Deliverables or the performance of this Agreement on account of any Dispute or proceeding taken under this article. In the event of a Dispute, the County shall cause the County Representative to give any instructions the County Representative believes are necessary for the delivery of the Deliverables or the performance of this Agreement by the Supplier and to prevent delays pending resolution of the Dispute. The Supplier shall immediately comply with such instructions, and the issuance of such instructions and compliance with such instructions is without prejudice to any other right, power, or remedy available to the Supplier under this Agreement, under Applicable Law, or in equity.

## **ARTICLE 23 NOTICES**

- 23.1 Notices required or permitted to be given by one party to the other under this Agreement must be in writing and must be delivered by personal delivery, registered mail, or electronic mail to the address for the recipient party set out in Schedule "C" or such other address as advised by written notice from one party to the other party at any time and from time to time.
- 23.2 Notices are deemed to have been given:
- (a) if delivered by personal delivery: if delivered during Business Hours, when it was received by the recipient party; or if delivered outside of Business Hours, on the date that is the next Business Day;
  - (b) if delivered by registered mail, on the date on which the recipient party signed for the registered mail, but in the event of a failure to sign for the registered mail such notice is deemed to have been given 7 days from the date the registered mail was sent; and
  - (c) if delivered by electronic mail and provided such electronic mail is not returned as undeliverable to the sending party: if delivered during Business Hours, when it was received by the recipient party; or if delivered outside of Business Hours, on the date that is the next Business Day.
- 23.3 During a postal disruption, notices must be delivered by personal delivery or electronic mail.

## **ARTICLE 24 ASSIGNMENT OR SUBCONTRACTING**

- 24.1 The Supplier shall not assign or subcontract the whole or any part of this Agreement to any other Person, except as expressly provided for in this Agreement, without the prior written consent of the County, which may be arbitrarily and unreasonably withheld or conditioned.
- 24.2 In the event that in accordance with this Agreement the Supplier subcontracts the whole or any part of this Agreement, the Supplier shall enter into an agreement with the subcontractor that adopts all of the provisions of this Agreement as far as applicable to those parts of the Deliverables to be provided by the subcontractor.
- 24.3 Nothing in this Agreement creates a contractual relationship between any subcontractor and the County. Despite the Supplier subcontracting the whole or any part of this Agreement, the Supplier remains bound by this Agreement and is liable for the

performance or non-performance of the subcontractor as if that performance or non-performance was that of the Supplier itself.

## **ARTICLE 25      GENERAL PROVISIONS**

- 25.1 **Proof of Compliance:** Immediately upon request by the County, the Supplier shall provide evidence to the County's satisfaction of the Supplier's compliance with this Agreement.
- 25.2 **Amendment:** The parties may only amend this Agreement by mutual agreement in writing signed by each of the parties.
- 25.3 **Authorized Signatories:** The parties represent to one another that the individual(s) signing this Agreement are the authorized signatories of that party, and neither party may challenge or repudiate this Agreement on the basis that the individual(s) so signing lacked the authority to sign on the party's behalf, despite the presence or absence of a seal or affidavit or other formality of execution confirming the individual's authority to sign on that party's behalf.
- 25.4 **Binding Effect and Enurement:** This Agreement enures to the benefit of and is binding upon the parties and their respective permitted assigns and successors.
- 25.5 **Capacity of the County:** The County enters into this Agreement in its capacity as a municipal corporation, and not as a government or regulatory body. Nothing in this Agreement may be construed so as to in any way fetter or impair the authority of the County and the County's Personnel in the exercise of their governmental or regulatory powers, duties, and functions.
- 25.6 **Entire Agreement:** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior agreements, negotiations, and understandings. There are no agreements, representations, warranties, terms, conditions, or commitments, whether oral or written, express or implied, with respect to the subject matter of this Agreement except as expressed in this Agreement. Unless otherwise allowed pursuant to this Agreement, any subsequent requirements imposed by a party (including, but not limited to, payment of interest or other charges) are not enforceable against the other party unless this Agreement is amended to include such requirement and such amendment is in writing signed by each of the parties.
- 25.7 **Further Assurances:** Each party shall at any time and from time to time, upon each request by the other party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request to evidence, carry out, and give full effect to the provisions, intent, and meaning of this Agreement. This section survives the expiration or termination of this Agreement.
- 25.8 **Governing Law and Jurisdiction:** This Agreement is governed by the laws of the Province of Alberta and any applicable laws of Canada. The courts of the Province of Alberta located in Edmonton have exclusive jurisdiction to determine all disputes and claims arising between the parties with respect to this Agreement. This section survives the expiration or termination of this Agreement.

- 25.9 **Relationship of the Parties:** The relationship between the parties constituted by this Agreement is intended and is to be construed as that of independent contracting parties only and not that of partnership, joint venture, agency, employment, or any other association whatsoever. Neither party may create any obligation, either express or implied, on behalf of the other party. Neither party may hold itself out as an agent, employee, or partner of the other party.
- 25.10 **Remedies:** The rights, powers, and remedies of the parties in this Agreement are cumulative and are in addition to and without prejudice to any other right, power, or remedy available to the parties under Applicable Law or in equity.
- 25.11 **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability attaches only to such provision and all other provisions in this Agreement remain in full force and effect.
- 25.12 **Survival:** Provisions in this Agreement relating to dispute resolution, liens and encumbrances, hold backs and set offs, withholdings, insurance, limitation of liability, releases, remedies, representations and warranties, and any other provisions expressly or impliedly reasonably intended to govern the rights and obligations of either or both of the parties after the expiration or termination of this Agreement survive the expiration or termination of this Agreement.
- 25.13 **Time:** Time is of the essence in this Agreement, and if it is waived by a party for any particular item or for a time period then such waiver is not an absolute waiver and time will remain of the essence with the exception of the matter so waived and no other.
- 25.14 **Waiver:** No waiver by either party of any requirement of this Agreement is effective unless made in writing, and any such waiver has effect only in respect of the particular requirement stated in the waiver. For clarity, failure on the part of either party to complain of any act, or failure to act, of the other party or to declare the other party in default, irrespective of how long such failure continues, is not a waiver by such party of its rights under this Agreement.

**END OF SCHEDULE "A"**

## **SCHEDULE "B"**

### **CHANGES TO STANDARD TERMS**

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#### **ARTICLE 1      GENERAL**

- 1.1      The provisions contained in Schedule "A" to this Agreement are added to, modified, or deleted in accordance with the provisions contained in this Schedule "B".

#### **ARTICLE 2      INSURANCE REQUIREMENTS**

- 2.1      Section 12.3 of Schedule "A" is amended by deleting the text "If the Supplier is providing, or causing to be provided, professional services under this Agreement, then the" and replacing it with the text "The".

**END OF SCHEDULE "B"**

## SCHEDULE "C"

### PURCHASE SPECIFIC INFORMATION

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**1. PRICE**

The Price is set out in Sub-Schedule "C-1".

**2. DELIVERABLES AND TIMETABLE**

The Deliverables and Timetable are described in Sub-Schedule "C-2".

**3. KEY PERSONNEL**

The Key Personnel, and their mandatory credentials and roles in providing the Deliverables, are:

(a) **Key Personnel that are individuals:**

| Name of Individual | Name of Position and Name of Subcontractor (if applicable) | Qualifications | Mandatory Credentials | Role in providing the Deliverables |
|--------------------|--|----------------|-----------------------|------------------------------------|
| [Insert]           | [Insert Position]<br>[Insert Name of Subcontractor]        | [Insert]       | [Insert]              | [Insert]                           |

(b) **Key Personnel that are not individuals:**

| Name of Subcontractor | Qualifications | Mandatory Credentials   | Role in providing the Deliverables |
|-----------------------|----------------|---|------------------------------------|
| [Insert Legal Name]   | [Insert]       | Those credentials otherwise required by this Agreement.<br>[Insert] | [Insert]                           |

**4. OTHER INFORMATION**

(a) **County Representative and Supplier Representative:**

|                | County Representative | Supplier Representative |
|----------------|-----------------------|-------------------------|
| Name:          | [Insert]              | [Insert]                |
| Telephone #:   | [Insert]              | [Insert]                |
| Email Address: | [Insert]              | [Insert]                |

(b) **Supplier's GST Number:** [Insert Supplier's GST Number].

(c) **Invoice Timing:** Every 30 days the Supplier shall deliver its invoice in accordance with this Agreement.

- (d) **Mandatory Credentials:** In addition to any other mandatory credentials of the Supplier set out in this Agreement, the following are mandatory credentials for the Supplier: N/A.

- (e) **Addresses for Notices:**

| Party    | Delivery Method                      | Address  |
|----------|--------------------------------------|--|
| County   | personal delivery or registered mail | STRATHCONA COUNTY<br>[Insert Department Name]<br>[Insert Department Mailing Address]<br>Sherwood Park, AB [Insert Postal Code]<br>Attention: Director<br><br><i>with a copy to:</i><br>STRATHCONA COUNTY<br>Legislative, Legal and Procurement<br>2001 Sherwood Drive<br>Sherwood Park, AB T8A 3W7<br>Attention: Contract Management |
|          | electronic mail                      | [Insert Email Address]<br><br><i>with a copy to:</i><br>contractmanagement@strathcona.ca   |
| Supplier | personal delivery or registered mail | [INSERT LEGAL NAME OF SUPPLIER]<br>[Insert Supplier's Address for Notice]<br>[Insert City, Province Postal Code]<br>Attention: [Insert Name and/or Title]  |
|          | electronic mail                      | [Insert Supplier Email Address]  |

## **SUB-SCHEDULE "C-1"**

### **PRICE**

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The Price for the Deliverables is the Price set out in the applicable Service Schedule.

The Price for any Deliverables provided by the Supplier in accordance with a Service Schedule shall not exceed the unit pricing set out in the below chart:

| <b>Position</b> | <b>Unit Pricing Per Hour</b> |
|-----------------|------------------------------|
| [insert]        | \$(insert)                   |

[NOTE TO DRAFT: EXCERPTS FROM THE PRICING FORM (ATTACHMENT 3) WILL BE INSERTED ABOVE UPON AWARD.]

**END OF SUB-SCHEDULE "C-1"**

## **SUB-SCHEDULE "C-2"**

### **DELIVERABLES AND TIMETABLE**

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#### **ARTICLE 1 DELIVERABLES**

The Deliverables shall be performed by the Supplier only upon request by the County for such Deliverables. In the event the County desires the Supplier to perform certain Deliverables, the County shall issue a request for service schedule quotation (including a copy of the proposed Service Schedule) by email to the Supplier. If following review of the Supplier's service schedule quotation the County desires to proceed with those certain Deliverables, then the County will issue the Service Schedule to the Supplier for execution, and the Supplier shall perform those certain Deliverables in accordance with the Service Schedule.

The Deliverables that may be provided by the Supplier in accordance with this Agreement generally include the following: [INSERT DELIVERABLES THAT MAY BE PROVIDED BY THE SUPPLIER FROM THE RFP IN SECTION A. THE DELIVERABLES FROM APPENDIX A – RFP PARTICULARS].

The Supplier shall provide the Deliverables in accordance with the Sub-Schedule "C-2-1".

This Sub-Schedule "C-2" is intended to be interpreted so as to give all provisions full meaning and effect, and in as much as possible in a compatible manner. If there is a conflict in the provisions of this Sub-Schedule "C-2" and any sub-schedule attached to this Sub-Schedule "C-2", then the provisions of this Sub-Schedule "C-2" govern and take precedence over the provisions in any sub-schedule attached to this Sub-Schedule "C-2".

#### **ARTICLE 2 TIMETABLE**

The Supplier shall complete the Deliverables in accordance with the timing specified in the applicable Service Schedule.



## **SUB-SCHEDULE "C-2-1"**

### **EXCERPTS FROM SUPPLIER'S PROPOSAL**

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[NOTE TO DRAFT: PORTIONS OF THE SUPPLIER'S PROPOSAL SUBMISSION WILL BE INSERTED UPON AWARD].

This Sub-Schedule "C-2-1" includes excerpts from the Supplier's proposal submission, comprised of [insert] pages.

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**END OF SUB-SCHEDULE "C-2-1"**

**END OF SUB-SCHEDULE "C-2"**

**END OF SCHEDULE "C"**

DRAFT

## **SCHEDULE "D"**

### **ADDENDA**

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During the procurement process for the Deliverables, there may have been addenda issued that included responses that were intended to impact this Agreement. The responses that were intended to impact this Agreement and that have not been incorporated into another part of this Agreement are attached to this Schedule "D" and are referred to as the "Addenda". The Supplier shall provide the Deliverables in accordance with the Addenda.

[NOTE TO DRAFT: Upon award, one of the following will be inserted: (1) "There are no Addenda attached to this Schedule "D"." OR (2) the relevant addenda (or portions of addenda) that include responses that were intended to impact this Agreement and that have not been incorporated into another part of this Agreement.]

**END OF SCHEDULE "D"**

DRAFT

## **SCHEDULE "E"**

### **FORM OF SERVICE SCHEDULE**

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This Schedule "E" includes the document attached and identified as 'Service Schedule'.

DRAFT

**SERVICE SCHEDULE**  
Service Schedule No. \_\_\_\_\_  
RFP No. 25.0110

This Service Schedule made as of \_\_\_\_\_, 20\_\_.

BETWEEN:

**STRATHCONA COUNTY**  
(the "County")

-and-

**[INSERT LEGAL NAME OF SUPPLIER]**  
(the "Supplier")

AS the parties entered into a master agreement dated \_\_\_\_\_ and identified as County Corporate Contract Number \_\_\_\_\_ (the "MA"), and the County has requested the Supplier to provide the particular Deliverables described in this Service Schedule pursuant to the provisions of the MA and this Service Schedule;

THE PARTIES AGREE AS FOLLOWS:

**ARTICLE 1 GENERAL**

- 1.1 In this Service Schedule, all capitalized words and phrases used but not defined below have the meanings given in the MA.
- 1.2 The provisions of the MA and this Service Schedule will govern the provision of the Deliverables identified in this Service Schedule, and they are to be interpreted so as to give all provisions full meaning and effect, and in as much as possible in a compatible manner. If there is a conflict in the provisions of this Service Schedule and the MA, then this Service Schedule shall govern and take precedence over the MA.
- 1.3 The County may terminate this Service Schedule without cause and for the County's convenience by giving the Supplier at least 30 days prior written notice. In the event of such termination, the County shall pay the Supplier for all amounts owing up to the effective date of termination, plus any reasonable cancellation costs incurred directly by the Supplier as a result of the termination, and the Supplier shall have no further claims against the County, including for any loss of profit, arising from the termination.

**ARTICLE 2 SPECIFIC INFORMATION**

- 2.1 **Deliverables:** The Supplier shall provide the following Deliverables to the County in accordance with the MA and this Service Schedule: \_\_\_\_\_.
- 2.3 **Timetable:** The Supplier shall complete the Deliverables by this date: \_\_\_\_\_.
- 2.4 **Price:** The Price for which the Supplier shall provide the Deliverables in accordance with this Service Schedule and the MA is: \_\_\_\_\_.

**ARTICLE 3 COUNTERPARTS AND ELECTRONIC SIGNATURE**

3.1 This Service Schedule may be signed in any number of counterparts, each of which shall be deemed an original for all purposes and all of which when taken together constitute one and the same instrument. A party may provide an electronic signature for this Service Schedule, which will be binding on such party.

THE PARTIES, BY THEIR RESPECTIVE AUTHORIZED SIGNATORIES, SIGN AND DELIVER THIS SERVICE SCHEDULE AS FOLLOWS:

**[INSERT LEGAL NAME OF SUPPLIER]**

**STRATHCONA COUNTY**

*[NOTE TO DRAFT: SIGNATURE BLOCK WILL BE INSERTED BEFORE ISSUANCE OF THE SERVICE SCHEDULE]*

**END OF SCHEDULE "E"**

DRAFT