



City of Saint John

# Request for Proposal

**2023-091004P**

**“ENGINEERING SERVICES – CONCEPTUAL DESIGN AND  
INVESTIGATION FOR THE COURTNEY BAY CAUSEWAY”  
SAINT JOHN, NB**

Sealed proposals, hand-delivered or couriered, addressed to Monic MacVicar, CCLP, CPPB, Procurement Specialist, 1<sup>st</sup> Floor, Municipal Operations Complex, 175 Rothesay Avenue, Saint John, NB, E2J 2B4, and marked on the envelope:

**“PROPOSAL 2023-091004P  
ENGINEERING SERVICES – CONCEPTUAL DESIGN AND  
INVESTIGATION FOR THE COURTNEY BAY CAUSEWAY”**

will be received by **4:00:00 p.m. Local Time, Wednesday, September 13<sup>th</sup>, 2023**, for Engineering services for the Conceptual Design and Investigation Services for the above-noted project, as per the Request for Proposal.

Proposals will be opened in the office of the Purchasing Agent, 1<sup>st</sup> Floor, Municipal Operations Complex, 175 Rothesay Avenue, immediately following the proposal submission deadline.

The lowest cost or any proposal is not necessarily accepted.

Proposals will NOT be opened publicly.

**Chris Roberts, SCMP, CPPB  
Procurement Manager  
Supply Chain Management**

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## SCOPE OF WORK for Proposal 2023-091004P

# Engineering Services – Conceptual Design and Investigation For The Courtney Bay Causeway

### 1. GENERAL:

The City has prepared this document for Consulting Engineering firms to provide their services to the City of Saint John. This request for proposals is to be used as a guide, in combination with good engineering judgment and standard engineering practices, and is not intended to be a complete procedural document. It reflects the basic standards the Consultant shall adhere to when preparing a proposal or carrying out work for the City.

All engineers working on this project for the City must be current members, licensees, or holders of a certificate of authorization with APEGNB. All Engineering companies working on this project for the City must have a current certificate of authorization with APEGNB.

The Consultant shall in all matters act as a faithful advisor to the City. The Consultant shall keep the City informed on all matters related to design, investigations, and all other important aspects forming part of the scope of work.

The Consultant must manage the project in the best interest of the City of Saint John. The Consultant will oversee and manage the entire project on behalf of Engineering Services. The proposal shall clearly explain the anticipated structure of project management during each phase.

**The Consultant shall be aware of and follow any orders, policies, directives, standards, and guidelines issued by any governmental authority, governing all or any part of the work under this RFP.**

### 2. PROJECT DESCRIPTION:

The City of Saint John invites qualified consultants to submit proposals for the upgrade of the Courtney Bay Causeway. The primary goal of this project is to raise and reinforce the causeway, aligning it with current design standards to mitigate the risks posed by climate change and sea level rise. Additionally, the City seeks investigations and conceptual designs for various improvements, including altering the traffic geometry, incorporating active transportation lanes, evaluating the existing hydraulic capacity of the causeway, and exploring the feasibility of adding a pumping station to mitigate flooding of Marsh Creek.

The city has been awarded Disaster Mitigation and Adaptation Funding (DMAF) for the raising of the causeway and the addition of a pumping station. Submissions were completed before the current hyperinflationary period therefore the city wants to complete an investigation and conceptual design to verify if the available funding is sufficient to complete the work.

### **3. PROFESSIONAL SERVICES REQUIRED:**

The Consultant will oversee and manage the creation of a report assessing and analyzing the proposed upgrades to Courtney Bay Causeway. The proposal shall indicate the technical services provided for each of the following components of the report:

#### **1. Existing Condition**

The consultant will collect and review existing information related to the Courtney Bay Causeway. This will include an examination of the available construction plans, historical flood records, completed reports, and any relevant documentation associated with the causeway. The city will provide the consultant with all documentation related to the DMAF application in terms of pricing allowances and the expected high-level scope of work.

#### **2. Causeway Analysis**

The consultant will evaluate the proposed raising of the Causeway and assess the expected risks and costs. Deliverables for this task are the following:

- A. Risk Assessment for Flood Overtopping:* The consultant will conduct a risk assessment to evaluate the potential implications of flood overtopping, should water levels exceed the current design capacity of the causeway. This assessment will include estimating the financial costs associated with flood overtopping and identifying potential damages that may arise. The Consultant is to present the risks and recommend appropriate mitigation measures.
- B. Comparative Analysis of Overtopping Probability:* Compare the probability of flood levels overtopping the causeway under existing conditions and compare against the probability after raising the road elevation to meet current design standards. Consider short-term and long-term scenarios, considering the effects of climate change, and sea level rise.
- C. Evaluation of Causeway Road Base Material:* The Consultant will conduct a geotechnical evaluation of the existing road base material under the causeway to determine its suitability for the proposed raising of the roadway.

The evaluation will encompass the following key components:

- i. **Bearing Capacity Assessment:** The consultant will assess the load-bearing capacity of the existing road base and determine its ability to support the additional loads resulting from the proposed raising of the causeway. Consider that the roadway is proposed to be narrowed to 2 lanes in addition to 2 active transportation lanes as part of this work.
- ii. **Seepage Analysis:** During site visits in January 2023, seepage was observed in the causeway road structure during high tides. To ensure the long-term structural integrity of the causeway, the consultant will conduct a detailed analysis of the seepage levels and assess its potential impact on the stability of the causeway.

Considering both the bearing capacity assessment and the level of seepage, the Consultant shall assess the adequacy of the existing road base material. If an alternative road base material is deemed necessary, the consultant will present projected costs associated with the proposed alternatives.

*D. Geometric Analysis and Design Alternative:* review transportation geometry to confirm the feasibility of transforming the causeway from a 4-lane road to a 2-lane road with two active transportation lanes. Provide a cost savings analysis in comparison of 2-lanes with active transportation lanes versus reinstating the existing 4-lane configuration. A reduction in the roadway width is desired to keep the project cost down to fit within the available funding.

### **3. Hydraulic Assessment**

The consultant will assess the hydraulic capacity of the causeway. Deliverables for this task are the following:

*A. Evaluation of Drainage Culverts and Flap Gates:*

- i. The consultant will assess the condition of the existing drainage culverts and flap gates along the Causeway. The consultant is to verify that the existing infrastructure meets current design standards and regulations.
- ii. This assessment will consider both the current and future demand, including the long-term effects of climate change, and sea-level rise. If the culverts are unable to meet the current and future demands, then the consultant is to complete a cost-benefit analysis for the upsizing of the existing infrastructure. The consultant is to consider the possibility of adding additional infrastructure along the causeway to increase hydraulic capacity.

- B. *Investigate the Feasibility of a Pumping Station:* The consultant is to investigate the installation of a pumping station along the causeway for the improved flooding prevention of Marsh Creek. The objective of the pumping station is to aid in emptying Marsh Creek (Northside of the causeway) into the Bay (southside of the causeway) during high flood levels. This will require the review of the Stormwater Management Strategy from Terrain Group, hydraulic modeling of the area, and use of historical and forecasted flood projections along Marsh Creek. If a pumping station is a viable option, then the consultant is to provide the following:
- i. Assess the conceptual pumping capacity.
  - ii. Quantify the level of flood risk reduction that the pumping station would provide.
  - iii. Identify operating triggers for the pumping station. Provide an estimated operating cost to operate the pumping facility based on the triggers provided.
  - iv. Provide a cost estimate for the work to install the pumping station.

The Consultant is to consider the potential for cost-sharing with NBDTI (New Brunswick Department of Transportation and Infrastructure), the consultant will appropriately summarize their findings to inform NBDTI. This summary will provide a clear understanding of the condition of the culverts and flap gates, as well as the recommended actions to address any current and future hydraulic deficiencies. The consultant is to include a conceptual cost estimate for any proposed alternative.

#### **4. Regulatory Requirements:**

Confirm the need for various regulatory requirements related to the project and evaluate their cost implications. Confirm the requirement for Environmental Impact Assessment (EIA), Climate Lens Assessment, Indigenous Consultation, Archaeological Impact Assessment (AIA), and any other relevant regulatory requirements for this project. The consultant is to outline the confirmed regulatory requirements, their triggers, and estimated costs for each item.

#### **5. Comprehensive Cost Estimate:**

The Consultant will be responsible for preparing a comprehensive cost estimate for the raising of the causeway plus all other required improvements based on the investigation. The estimate will be further broken down to include the anticipated design costs and construction management for the required improvements.

To ensure accuracy, the estimate will consider inflationary prices over the anticipated project duration, which is estimated to be 3-4 years as per the

DMAF application. The city will work with the consultant to determine the timing of each phase of the work.

In addition to the detailed cost breakdown for each component of the project, the Consultant will provide a summary estimate that consolidates the total anticipated conceptual costs for the entire project.

## **6. Performance Metrics, Review, and Comments**

The consultant is to review the draft DMAF agreement and recommend performance metrics to be included in the final DMAF funding agreement that is achievable if the City were to proceed with moving this project forward to design and construction.

### TIMELINE FOR COMPLETION

The Consultant shall have the draft report submitted for review before December 22<sup>nd</sup>, 2023. The final report and supporting document are to be submitted to the City by January 26<sup>th</sup>, 2023.

### GENERAL

#### Project Initiation

Following the award of the project, the Consultant and the City of Saint John will have a start-up meeting to clarify the project scope and outline the proposed schedule and deliverables. As the City will be relying on this information for deciding if the City should proceed with the funding agreement, therefore this project shall be a priority for the Consultant.

#### Proposal Fee breakdown

The consultants proposed fees shall be submitted as a lump sum for the completion of the draft report and the final report submissions. Progress payments are to be made relative to the progress of each submission.

#### Other information

The consultant and all sub-consultants must use proper traffic control and warning signage (with approved sign bases) when working or surveying on the causeway streets as per the General Specification for construction.

It should be noted that a 69,000 Volt cable is running under the sidewalk along the causeway.

No additional documents or recorded information will be made available during the proposal stage. Once the proposal is awarded, the reports, record drawings, and other information about the causeway will be made available to the Consultant but no guarantee as to their completeness or accuracy will be made. The Consultant shall send their requests in writing for large amounts of data and allow a reasonable amount of time to retrieve such. The Consultant must contact Infrastructure Development staff directly to gather all pertinent data. The Consultant is expected to meet and be familiar with City staff and their respective roles.

The Consultant shall undertake their work following the latest revision of the following guiding documents:

- City of Saint John's Storm Drainage Design Criteria Manual (consideration should be given to climate change and sea level rise).
- City of Saint John's Central Peninsula Secondary Plan;
- Atlantic Canada Wastewater Guidelines Manual for the Collection, Treatment, and Disposal;
- Atlantic Canada Guidelines for the Supply, Treatment, Storage, Distribution, and Operation of Drinking Water Supply Systems;
- City of Saint John General Specifications;
- Canada-wide Strategy for the Management of Municipal Wastewater Effluent endorsed by the Canadian Council of Ministers of the Environment (CCME); and
- Climate Change Adaptation Plan for Saint John

Before reports and related documents are sent to the City for review, the Consultant must have other engineers from their firm review them for errors to ensure only high-quality work is released.

The Consultant must identify in the proposal the peer reviewers. The Consultant's peer review engineer(s) must send a memo to the City with the final report stating the outcome of the review.

The Consultant shall **not** be responsible for applying for any of the design approvals and permits necessary from all approval agencies, such as the NBDELG, NBNRED, NBDTI, etc. The Consultant shall undertake a review of permitting requirements and provide a summary of applicable permits that will be required for the work. If permits are required for the consultant's investigation work they should obtain these as required.

#### **4. METHOD OF PAYMENT:**

Upon award of the contract, the City will execute an agreement with the successful engineering firm for the work to be performed. Payment of fees shall be following the terms of the Request for Proposal at the rates submitted and accepted in the Consultant's proposal.



The Consultant shall invoice the City every month for the work performed per the engineering services agreement. The Consultant shall provide a status report with each invoice outlining in detail the scope of the work completed during that month. Payments will not be processed unless the invoice is signed by an authorized representative of the company, accompanied by a status report in the proper timed-based format (hourly rate x hours worked).

A change in the fees may be considered only if the scope of the engineering work is changed at the request of the City's Engineer.

Maximum or upset fee (including HST) will be included in the proposal for this project beyond which no additional payments will be considered unless first submitted by the Consultant in writing and authorized in writing by the City.

The total price stated must also include \$30,000 + HST as an engineering contingency for unforeseen work. No part of this contingency shall be expended without the written direction of the City's Engineer, and any part not so expended shall be deducted from the contingency allowance.

## **5. TERMINATION OF CONTRACT:**

The City will reserve the right to terminate the contract with the Engineering Firm at any other time during the work. In such an event, payment will be made only for the work completed up to the time of termination.

The City of Saint John does not, under any proposal request, commit to an award of this bid, nor does it commit to accepting the proposal submitted, but reserves the right to award this proposal in a manner deemed to be in the best interest of the City.

## **6. CONTENT OF PROPOSAL:**

The Consultant shall confirm a clear understanding of the work to be undertaken as described in the Scope of Work. The proposal must demonstrate that the Consultant and its team have recent and significant experience with this type of work. When noting examples of experience gained on similar projects, the proposal must also note which current staff members worked on that project and what their role was. The proposal must specifically address all requirements of the work and any matters related to its successful implementation. The proposal must indicate what role each of the Consultant's team will be carrying out for the project. The Consultant may not substitute the project team members noted in the proposal without permission of the City. When proposing a schedule, the Consultant must also indicate that their workload is such that they will have time to complete the project as promised. If the Consultant is very busy, they should either decline the work or propose a longer schedule at the time of the RFP submission.

The proposal shall include the following sections:

**A. TECHNICAL PROPOSAL:**

- Table of Contents
- Work Plan and Schedule
- Project Team
- Experience with similar projects

**B. FINANCIAL PROPOSAL:**

- Maximum or Upset Fee(s) for the overall scope of work.
- Include a contingency allowance of \$30,000.
- All costs are to be subtotaled (including contingency allowance) with the 15% HST component identified separately and added to arrive at a total cost.
- Billing Rate Summary (hourly billing rates for all key personnel).

All sub-consultants such as geotechnical, legal survey, electrical, structural, and others shall have their fees identified and included in the appropriate part of the proposal.

**7. EVALUATION CRITERIA:**

For this proposal call, submissions will be evaluated on the following criteria:

- *QUALITY AND COMPLETENESS* – Has the proposal addressed all of the needs raised? Is the proposal presented in an organized and professional manner? (Criteria weight = 10 points)
- *CONSULTANT'S EXPERIENCE* – Has the proposal demonstrated a level of expertise with the requirements of this project? (Include references for projects of a similar nature.) (Criteria weight = 20 points)
- *EXPERIENCE OF EMPLOYEES / SUB-CONSULTANTS* – Has the proposal demonstrated a level of expertise for the employees of the company and sub-consultants listed? (Include resumes for staff and sub-contractors required.) (Criteria weight = 35 points)
- *METHODOLOGY* – Does the approach to the project outlined in the proposal address, in a realistic sense, attainable goals, and is it in keeping with the City's expectations for the project? (Criteria weight = 75 points)
- *VALUE ADDED* – What additional information, technology, process, or options has the consultant included in his proposal? Is there value added to the consultant's response for this additional information? (Criteria weight = 10 points)
- *COST* – Cost will be a factor, however not the only factor to be considered. (Criteria weight = 50 points)

Consultants are advised that proposals will be evaluated solely based on information submitted by the request for proposals. The City reserves the right, if deemed necessary, to short-list the proposals and to request an additional verbal presentation from each short-listed proponent. The Consultant may supplement their presentation with a summary in written format to clarify points raised during the process.

## **8. INSURANCE REQUIREMENTS:**

The Consulting Engineering firm shall obtain and keep in force, during the full duration of this contract, an Errors and Omissions Liability policy with a minimum limit of two (2) million dollars, and two (2) million dollars **per claim**. The policy shall include a clause stating that thirty (30) days' notice of cancellation of this policy will be given to the City of Saint John, by the insurers. Provide evidence of this policy.

The Consultant must provide proof of current coverage from WorkSafeNB before the start of the work.

The Consultant shall provide evidence of the following insurance coverage:

General Liability with minimum limits of two (2) million dollars per occurrence.

The policy shall include:

- Operations of the consultant in connection with this project;
- Products and completed operations coverage;
- Contractual liability concerning this project;
- The City of Saint John added an additional named insured;
- A cross-liability clause;
- Non-owned automobile;
- Thirty (30) days written notice of cancellation of this policy will be given to the City of Saint John, by the insurers; and
- Standard automobile insurance for owned automobiles with at least the minimum limits allowed by law.

## **9. FORMALITY CLAUSE:**

For the City of Saint John to consider any proposal submission as a legally binding offer, on behalf of the Consultant, the Consultant must communicate this formality to the City in the form of an offer that contains the original signature of the individual or representative of the firm who is authorized to act on behalf of the Consultant.

To meet this requirement, all proposal submissions to the City of Saint John must be prefaced with a cover letter that contains the original signature of the individual authorized by the Consultant to submit proposals on their behalf.

The cover letter must be on official company letterhead, be dated, and be addressed to the attention of the City of Saint John representative specified in the request for proposal document. Additionally, it must refer to the body of the letter to the request

for proposal number and project title, as well as to the fact that the enclosed documents constitute a formal proposal offer, the letter must contain the original signature as indicated.

Failure to include the required cover letter as a preface with your proposal will be grounds for immediate rejection on the basis that it is not formal.

## **10. STANDARD TERMS AND CONDITIONS:**

### **Addenda**

Periodically, the City of Saint John is required to issue notification of changes or corrections to a bid document by way of addenda. Normally these notifications will have a direct bearing on the cost of a project and will influence bidding. Therefore, the City must have assurances that bidders have received the notification(s).

Bidders are responsible for obtaining all addenda issued by the City. Addenda may be obtained from the City's website ([www.saintjohn.ca](http://www.saintjohn.ca)) under the menu option "Tender and Proposals".

### **Bidders are required to sign and include all addenda with their bid submission.**

Failure to include a copy of all signed addenda with the bid submission may result in the rejection of the bid regardless of whether or not the changes noted in the addendum are included in the bid submission.

### **Advisory Notice(s)**

Periodically, the City of Saint John is required to issue clarification notices to a bid document in the form of Advisory Notices. Normally these notifications will not have a direct bearing on the cost of a project and will not influence bidding.

Bidders are responsible for obtaining all advisory notice(s) issued by the City. Advisory Notice(s) may be obtained from the City's website ([www.saintjohn.ca](http://www.saintjohn.ca)) under the menu option "Tenders and Proposals".

Bidders are instructed to sign the Advisory Notice and return it either by fax to (506) 658-4742 or email to [supplychainmanagment@saintjohn.ca](mailto:supplychainmanagment@saintjohn.ca) before the closing date.

Failure to comply with the instructions on an advisory may result in the rejection of the bid.

### **Review of Proposals**

The evaluation committee may invite proponents to meet with the review committee to make an oral/visual presentation in support of their proposal. The City will provide the meeting venue at its cost. The proponent shall bear the costs related to such

meeting.

### **Additional Information from Proponents**

The City of Saint John reserves the right during the evaluation of the bids to seek further information from any proponent and to utilize that information in the evaluation and the award without becoming obligated to seek further information from any other proponents.

### **Clarification of Bids**

The City of Saint John reserves the right in its sole discretion to clarify any bid after the close of bidding without becoming obligated to clarify any other bid.

### **Negotiation**

The City reserves the right in its sole discretion to negotiate the final terms and conditions of the engagement contract with the most probable candidate for award before the award of the engagement.

### **Inconsistency between Paper and Electronic Form**

If there is any inconsistency between the paper form of a document issued by or on behalf of the City to proponents and the digital, electronic, or other computer-readable form, the paper form of the document prevails.

### **Acceptance, Revocation, and Rejection of Proposals**

The proposal constitutes an offer that shall remain open and irrevocable until ninety (90) days after the date of the proposal opening.

### **Reserved Rights**

The City reserves the right to:

- a) Reject an unbalanced Proposal. For this section, an unbalanced Proposal is a Proposal containing a unit price that deviates substantially from or does not fairly represent, reasonable and proper compensation for the unit of work bid or one that contains prices that appear to be so unbalanced as to adversely affect the interests of the City. The City reserves the right to use Proposals submitted in response to other like or similar Requests for Proposals as a guideline in determining if a bid is unbalanced.
- b) Amend or modify the scope of a project, and/or cancel or suspend the Bid Solicitation at any time for any reason.

- c) Require proponents to provide additional information after the Closing Date for the Bid Solicitation to support or clarify their bids.
- d) not accept any or all bids.
- e) Not accept a bid from a bidder who is involved in litigation, arbitration, or any other similar proceeding against the City.
- f) Reject any or all bids without any obligation, compensation, or reimbursement to any bidder or any of its team members.
- g) Withdraw a Bid Solicitation and cancel or suspend the Bid Solicitation process.
- h) Extend, from time to time, any date, period, or deadline provided in a Bid Solicitation (including, without limitation, the Bid Solicitation Closing Date), upon written notice to all bidders.
- i) Assess and reject a bid based on
  - i. information provided by references;
  - ii. the bidder's past performance on previous contracts;
  - iii. information provided by a bidder under the City exercising its clarification rights under the Bid Solicitation process;
  - iv. the bidder's experience with performing the type and scope of work specified including the bidder's experience;
  - v. other relevant information that arises during a Bid Solicitation process.
- j) Waive formalities and accept bids that substantially comply with the requirements of the Bid Solicitation.
- k) Verify with any bidder or with a third party any information set out in a bid.
- l) Disqualify any bidder whose bid contains misrepresentations or any other inaccurate or misleading information.
- m) Disqualify any bidder who has engaged in conduct prohibited by the Bid Solicitation documents.
- n) Make changes including substantial changes to the bid documents provided that those changes are issued by way of an addendum in the manner set out in the Bid Solicitation documents.
- o) Select any bidder other than the bidder whose bid reflects the lowest cost to the City.
- p) Cancel a Bid Solicitation process at any stage.

- q) Cancel a Bid Solicitation process at any stage and issue a new Bid Solicitation for the same or similar deliverable.
- r) Accept any bid in whole or in part.

And these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and the City shall not be liable for any expenses, costs, losses, or any direct or indirect damages incurred or suffered by any bidder or any third party resulting from the City exercising any of its express or implied rights under a Bid Solicitation.

### **Limitation of Liability and Waiver**

In every Bid Solicitation, the City shall draft the documents such that each bidder, by submitting a bid, agrees that:

- a) Neither the City nor any of its employees, agents, advisers, or representatives will be liable, under any circumstances, for any claims arising out of a Bid Solicitation process including but not limited to costs of preparation of the bid, loss of profits, loss of opportunity or any other claim.
- b) The bidder waives any claim for any compensation of any kind whatsoever including claims for costs of preparation of the bid, loss of profit, or loss of opportunity because of the City's decision to not accept the bid submitted by the bidder, to award a contract to any other bidder or to cancel the Bid Solicitation process, and the bidder shall be deemed to have agreed to waive such right or claim.

### **Proposal Debrief**

Immediately following the City's acceptance of a Proposal submitted, the Office of the Purchasing Agent shall send a written notification of award to all unsuccessful proponents disclosing the name of the successful proponent and providing a brief explanation rationalizing the City's selection:

- a) For all Requests for Proposals valued at Fifty Thousand Dollars **(\$50,000.00) or less**, the written notification of the award will be the only form of debriefing offered by the City;
- b) In the case of Requests for Proposals valued **more than** Fifty Thousand Dollars **(\$50,000.00)**, the Purchasing Agent may, in addition to the notification of the award and upon written request from any proponent, provide a more detailed oral debriefing either by phone or in person, as required by the proponent. During this debriefing, the Purchasing Agent may disclose information such as the total price of the successful proponent

and may discuss an overview of the process as well as the strengths and weaknesses of the requesting proponent's proposal.

- c) The written request referred to in paragraph (ii) shall be submitted to the Office of the Purchasing Agent no later than fifteen (15) business days after the notification of the award is issued.
- d) The acceptance of the successful Proposal shall not be discussed during a debriefing.

## 11. SUBMITTALS:

When preparing the Agreement for Engineering Services, the consultant is required to submit a "Business Corporation Act Certificate" to the Engineer.

## 12. ENQUIRIES:

All enquiries regarding this request for proposals shall be submitted in writing via email, by **4:00 p.m. Local Time on Tuesday, September 5<sup>th</sup>, 2023**, only to the attention of:

Monic MacVicar, CCLP, CPPB  
Procurement Specialist  
Supply Chain Management  
Email: [supplychainmanagement@saintjohn.ca](mailto:supplychainmanagement@saintjohn.ca)

Responses to enquiries will be in writing and distributed by email to all Consultants registered as having received the Terms of Reference as of the date the response is prepared. The source of the question will not be identified in the response. Verbal information shall not be binding upon the City. Enquiries after the above deadline will not receive a response.

## 13. RELEVANT DOCUMENTS:

- City of Saint John General Specifications, latest revision

## 14. SUBMISSION OF PROPOSALS:

Consultants shall deliver **eight (8)** copies of the Technical Proposal and supporting information and **eight (8)** copies of the Financial Proposal no later than **4:00:00 pm, Local Time, Wednesday, September 6<sup>th</sup>, 2023**, clearly indicating the Consultant's name and address and marked "**Proposal: 2023-091004P, Engineering Services – Conceptual Design and Investigation for The Courtney Bay Causeway**", to the attention of:



Chris Roberts, SCMP, CPPB  
Procurement Specialist, Supply Chain Management  
City of Saint John  
175 Rothesay Avenue, 1<sup>st</sup> Floor  
Saint John, NB E2J 2B4

Please note that:

1. Late proposals or proposals submitted by facsimile will be rejected.
2. The City assumes no responsibility for improperly addressed or delivered proposals.
3. The City of Saint John does not, under this proposal call, commit to an award of this proposal, nor does it commit to accepting the lowest or any proposal submitted, but reserves the right to award this proposal in any manner deemed to be in the best interest of the City.
4. The Financial Proposal is to be submitted in the Consultant's package in a separate sealed envelope, clearly marked as "**Financial Proposal: 2023-091004P, Engineering Services – Conceptual Design and Investigation for The Courtney Bay Causeway**" with the consultant's name and address.
5. Consultants must propose the entire project – incomplete proposals will be rejected.

Immediately following the closing time, proposal packages will be opened in the Office of the Purchasing Agent. Only the names and addresses of the proponents will be made public at this time. No other information about the proposals will be disclosed at that time. Proposals will then be forwarded to an evaluation committee for review and recommendation.

Proposals will **NOT** be opened publicly.

THIS **CONSULTING ENGINEERING AGREEMENT** made in triplicate  
this \_\_\_\_ day of **September, 2023** (the “Effective Date”).

BETWEEN:

**THE CITY OF SAINT JOHN**, having its offices  
at the City Hall Building at 15 Market Square,  
Saint John, New Brunswick, a body corporate  
by Royal Charter, confirmed and amended by  
Acts of the Legislative Assembly of the Province  
of New Brunswick, hereinafter called the “City”,

#### OF THE FIRST PART

- and -

**CONSULTING ENGINEERING FIRM**, an **extra-provincial** corporation registered under the  
Business Corporations Act, having its head  
office in the City \_\_\_\_\_, Province of  
\_\_\_\_\_, hereinafter called the  
“Consultant”,

#### OF THE SECOND PART

**WHEREAS**, the City issued a Request for **2023-091004P Engineering Services – Conceptual Design and Investigation for the Courtney Bay Causeway** [hereinafter referred to as “Request for Proposal”] attached hereto as Schedule “A”;

**WHEREAS**, the Consultant submitted a Proposal with respect to the Request for Proposal on **September 6th, 2023** [hereinafter referred to as the “Proposal”] which proposal the City has accepted and attached hereto as Schedule “B”;

**WHEREAS**, the purpose of this Agreement is for the services of Engineering Services – **Conceptual Design and Investigation for the Courtney Bay Causeway**

**WHEREAS**, the Common Council on **XXXX, XX, 2023** resolved that:

- (a) The proposal from **Consultant Engineering Firm**, for engineering design and construction management services

for **Conceptual Design and Investigation for the Courtney Bay Causeway** in the amount of **\$XXXX** including HST be accepted; and

- (b) That the Mayor and City Clerk be authorized to execute the appropriate documentation in that regard.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements herein and subject to the terms and conditions set out in this Agreement, the parties agree as follows:

## 1. Definitions

The terms defined in this clause shall for all purposes of this Agreement have the meanings specified unless the context otherwise specifies or requires:

1(1) **City Manager** means the city manager of the City or his designate appointed by resolution of Common Council.

1(2) **Claims** means any actual or threatened loss, liability, cost, charge, interest, claim, demand, allegation, action, cause of action, proceeding, suit, assessment, reassessment, proposed assessment or reassessment, damage, demand, expense, levy, tax, duty, judgment, award, fine, charge, deficiency, penalty, court proceeding or hearing cost, amount paid in settlement, encumbrance, and/or tangible and intangible property right (including all costs and expenses relating to the foregoing, including legal and other professional adviser and expert fees and expenses), and whether arising by contract, at common or statute law, in tort (including negligence and strict liability), in equity, in property or otherwise of any kind or character howsoever, and howsoever arising; and **Claim** means any one of them.

1(3) **Common Council** means the elected municipal council of the City.

1(4) **Confidential Information** means information disclosed to or obtained by the Consultant in connection with the fulfillment of the terms of this Agreement and which has been identified by Municipal Operations as information which should be treated as confidential and shall be as defined in Section 9.

1(5) **Consultant** means the consulting engineering firm who is currently licensed to practice within the Province of New Brunswick to carry out

engineering services required to complete the Project and referred to as **Consultant Engineering Firm** in this Agreement.

1(6) **Consultant Representative** means the person designated by the Consultant with duly vested authority to act on behalf of the Consultant.

1(7) **Dispute** means any dispute, controversy, Claim, disagreement or failure to agree arising out of, in connection with, or relating to the interpretation, performance or application of the Agreement; and **Disputes** has a corresponding meaning.

1(8) **Information** means all data, site surveys, preliminary investigations, preliminary designs, design reports with cost estimates, detailed designs, record drawings in digital and hard copy format, plans in digital and hard copy format, public consultation process data or reports, construction management and inspection services data or reports, and other materials developed in pursuance of the Project.

1(9) **Municipal Operations** means the Transportation and Environment Service of the City of Saint John.

1(10) **Parties** means the City and the Consultant, respectively; and **Party** means individually the City and the Consultant.

1(11) **Project** means the engineering services for the **Conceptual Design and Investigation for the Courtney Bay Causeway**

1(12) **Proposal** means the proposal submitted by the Consultant entitled Request for *Proposal 2023-091004P Engineering Services – Conceptual Design and Investigation for the Courtney Bay Causeway* dated September 6<sup>th</sup> 2023, and attached as Schedule “B”.

1(13) **Services** means those design and construction management services as set out in the Request for Proposal and the Proposal and as set forth in this Agreement.

1(14) **Work** means the scope of the Consultant’s services.

## 2. **General**

2(1) The City hereby agrees to retain the Consultant to provide the City with the Services and the Consultant hereby agrees to provide the Services to the City, all in accordance with the provisions of this Agreement.

2(2) The Consultant shall carry out the work in accordance with the Request for Proposal and the Proposal and any other written clarification(s) or addendum(s) thereof that has or have been requested and, provided and agreed to by the parties to this Agreement.

**3. Term**

3(1) The term of this Agreement commences on the Effective Date and construction of the Project is to proceed as outlined in the Request for Proposal.

**4. Scope of Services and Responsibilities**

4(1) The Consultant shall perform the Services as set out in the Request for Proposal and the Proposal and any other written clarification(s) or addendum(s) thereof that has or have been requested, provided and agreed to by the Parties to this Agreement, and these Services shall include:

A Detailed engineering report and conceptual design for the following components:

- (a) Review of existing conditions.
- (b) Causeway analysis.
- (c) Hydraulic assessment.
- (d) Regulatory requirements.
- (e) Comprehensive cost estimate.
- (f) Performance metrics, review and comments.

4(2) The Consultant shall perform these Services under the general direction and control of Municipal Operations and with all due and reasonable diligence, professional skills and competence.

## **5. Fees**

5(1) The City shall pay to the Consultant the fees in accordance with the Proposal and the provisions of the Request for Proposal including any other written clarification(s) or addendum(s) thereof that has or have been requested and provided and agreed to by the Parties to this Agreement.

5(2) Municipal Operations will review each invoice submitted by the Consultant within five (5) days after receipt and the City shall pay any undisputed amount thereunder within forty-five (45) days of the date of submission of such invoice by the Consultant.

5(3) The fees to be paid by the City for the Services performed hereunder shall be inclusive of any applicable sales taxes.

5(4) With respect to any invoice submitted by the Consultant, the City may, without triggering a default under this Agreement, withhold from any payment otherwise due:

- (a) any amount incorrectly invoiced, provided that Municipal Operations or the City timely informs the Consultant of the amounts alleged to be incorrectly invoiced and the basis for any such assertion for review, resolution and rebilling purposes; or
- (b) any amount in dispute.

## **6. Records and Audit**

6(1) In order to provide data to support the invoice for fees, the Consultant shall keep a detailed record of hours worked and the billing rate for all staff performing work on the Project. The Consultant agrees that the City may inspect these time records at any reasonable time.

6(2) The Consultant, when requested by the City, shall provide copies of receipts in respect to any disbursements for which the Consultant claims payment.

## **7. Failure to Perform**

7(1) Should the Consultant fail for any cause whatever to perform the Work provided for by this Agreement, or fail to perform the Work in a manner satisfactory to the City, then, in either case, all payments by the City to the Consultant shall cease as of the date of such failure, and the City may appoint its officials, or any other person or persons in the place instead of the Consultant to perform the Work and the Consultant shall have no Claim against the City except for the Work which has been performed by the Consultant under this Agreement up to the time of such failure, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

**8. Dismissal and Termination**

8(1) In the event that the City, acting reasonably, is dissatisfied with the Work performance by the Consultant or that the Consultant fail to comply with the specifications and the terms and conditions of this Agreement, the Parties agree that the City may dismiss the Consultant at any time on thirty (30) days' prior written notice. The Consultant will accept payment for Work performed to the date of dismissal on a pro-rated basis in accordance with the provisions of this Agreement, in full satisfaction of any and all Claims under this Agreement, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

8(2) This Agreement may be terminated, without cause, by the City upon thirty (30) days' written notice to the Consultant of the City's intention to terminate same.

8(3) In the event of termination of this Agreement by the City, it shall within forty-five (45) calendar days of termination pay the Consultant, for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions set out in this Agreement, without further liability, penalty or obligation to the City under this Agreement, and subject to any amounts that have already been paid to the Consultant.

8(4) Upon early termination of this Agreement and settlement of accounts, or upon completion of the Consultant's obligations under this Agreement, all information, data, material, sketches, plans, notes, documents, memoranda, specifications or other paper writing belonging to the City and gathered or assembled by the Consultant or their agents,

whether in paper or electronic format or otherwise for the purpose of this Agreement, shall forthwith be delivered to the City by the Consultant.

**9. Confidential Information**

9(1) The Consultant will, both during and following the term of this Agreement, treat as confidential and safeguard any information or document concerning the affairs of the City of which the Consultant acquires knowledge or that comes into its possession by reason of the Work for the City under this Agreement and will not disclose either directly or indirectly any such information or documents to any person, firm or corporation without first obtaining the written permission by the City, except any information or documents as the Consultant determines in its professional judgment should be disclosed to a third party.

9(2) Without limiting the generality of paragraph 9(1):

- (a) The Consultant will not use any information acquired through the performance of this Agreement (herein referred to as “findings”) to gain advantage in any other project or undertaking irrespective of the topic, scale, or scope of such project or undertaking;
- (b) The Consultant will not disclose any findings during or after the performance of this Agreement;
- (c) The Consultant will not respond to any inquiries pertaining to any findings and agrees to refer all such inquiries to the City;
- (d) The Consultant will not disclose or use any information that Municipal Operations cannot or may not wish to disclose;
- (e) The Consultant shall hold all Confidential Information obtained in trust and confidence for Municipal Operations or the City and shall not disclose, except as required by law, any such Confidential Information, by publication or other means, to any person, company or other government agency nor use same for any other project other than for the benefit of the City as may be authorized by the City in writing; and



Any request for such approval by the City shall specifically state the benefit to the City of the disclosure of the Confidential Information.

**10. Liability Insurance**

10(1) The Consultant, at no expense to the City, shall obtain and maintain in full force and effect during the term of this Agreement, a policy or policies of insurance with the following minimum limits of liability:

(a) Professional Errors and Omissions Liability Insurance

The Insurance Coverage shall be in the amount of Two Million Dollars (\$2,000,000.00) per claim and in the aggregate. When requested, the Consultant shall provide the City proof of Professional Errors and Omissions Liability Insurance carried by the Consultant and in accordance with the *Engineering and Geoscience Professions Act*, S.N.B. 2015, c. 9, and amendments thereto.

(b) Comprehensive General Liability and Automobile Insurance

The Insurance Coverage shall be of not less than Two Million Dollars (\$2,000,000.00) per occurrence and in the aggregate for general liability and Two Million Dollars (\$2,000,000.00) for automobile insurance. When requested, the Consultant shall provide the City with proof of Comprehensive General Liability and Automobile Insurance (Inclusive Limits) for both owned and non-owned vehicles.

10(2) The policies of insurance required in paragraphs 10(1)(a) & 10(1)(b) must provide that the coverage shall stay in force and not be amended, cancelled or allowed to lapse without thirty (30) days prior written notice being given to the City. The Consultant agrees to furnish to the City a renewal certificate at least ten (10) calendar days prior to the expiration of the policy.

10(3) The policy of insurance required in paragraph 10(1)(b) shall name the City as an additional insured and shall contain a cross-liability clause.

10(4) The Consultant shall obtain and maintain in full force and effect during the term of this Agreement, coverage from WorkSafeNB.

10(5) The Consultant shall submit to the City satisfactory evidence of having obtained the insurance coverage required and shall submit certificates of such coverage as well as current coverage from the WorkSafeNB forthwith to the City upon execution of this Agreement.

10(6) Nothing in this section 10 shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which the Consultant may be held responsible for payments of damages to persons or property.

**11. Project Managers**

11(1) The City shall designate a project manager to work directly with the Consultant in the performance of this Agreement.

11(2) The Consultant shall designate a Consultant Representative who shall represent it and be its agent in all consultations with the City during the term of this Agreement. The Consultant or its Consultant Representative shall attend and assist in all coordination meetings called by the City.

**12. Responsibility for Errors**

12(1) The Consultant shall be responsible for its work and results under this Agreement. The Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to the City.

12(2) In the event that an error or omission attributable to the Consultant's negligence, then the Consultant shall, at no cost to the City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the error or omission to the sole satisfaction of the City, acting reasonably, and to participate in any meeting required with regard to the correction.

**13. Remedies**

13(1) Subject to sections 18 and 19 hereof, upon default by either Party under any terms and conditions of this Agreement, and at any time after the default, either Party shall have all rights and remedies provided by law and by this Agreement.

13(2) No delay or omission by the Parties in exercising any right or remedy shall operate as a waiver of them or of any other right or remedy, and no single or partial exercise of a right or remedy shall preclude any other or further exercise of them or the exercise of any other right or remedy. Furthermore, any Parties may remedy any default by the other Party in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the defaulting party. All rights and remedies of each Party granted or recognized in this Agreement are cumulative and may be exercised at any time and from time to time independently or in combination.

**14. Indemnification**

14(1) Subject to subsection 14(2) hereof, but notwithstanding any other clauses herein, the Consultant shall indemnify and save harmless the City from all Claims, or other proceedings by whomsoever claimed, made, brought or prosecuted in any manner and whether in respect of property owned by others or in respect of damage sustained by others based upon or arising out of or in connection with the performance of this Agreement or anything done or purported to be done in any manner hereunder, but only to the extent that such Claims, or other proceedings are attributable to and caused by the Consultant's negligence, errors or omissions.

14(2) In no event shall the Consultant be obligated to indemnify the City in any manner whatsoever in respect of any Claims, or other proceedings caused by the negligence of the City, or any person for whom the City is responsible.

**15. Contract Assignment**

15(1) This Agreement cannot be assigned by the Consultant to any other service provider without the express written approval of the City.

**16. Performance**

16(1) All Parties agree to do everything reasonably necessary to ensure that the terms of this Agreement are met.

**17. Non-Performance**

17(1) The failure on the part of any Parties to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

**18. Dispute Resolution**

**A. Referral to Senior Management**

18(1) All Disputes arising out of, or in connection with, this Agreement, or in respect of any legal relationship associated with or derived from this Agreement shall within two (2) Business Days be referred for resolution to the City Manager and the Consultant Representative.

18(2) If the City Manager and Consultant Representative are not able to resolve the Dispute referred to them under this section 18 within seven (7) Business Days following such referral, the matter shall be referred for resolution by way of mediation upon the willingness of the Parties.

**B. Mediation**

18(3) Despite an agreement to mediate, a Party may apply to a court of competent jurisdiction or other competent authority for interim measures of protection at any time.

18(4) If the Parties resolve to mediate the Dispute referred to them under subsection 18(2), the Parties shall invoke the following mediation process:

- (a) Either Party shall immediately declare an impasse and provide written notice to the other within seven (7) Business Days thereof (or such other period as the Parties mutually prescribe) declaring that such party wishes to proceed to mediation and setting out in reasonable detail the issue(s) to be resolved, the proposed time and a list of at least three (3) and not more than five (5) proposed mediators. Each of the proposed mediators shall be an individual:
  - (i) with at least three (3) years' experience working in an executive capacity or representing clients in the area of public disputes, and

- (ii) unless otherwise agreed by the Parties, with no prior connection, affiliation or other formal relationship with either Party.
- (b) Upon receipt of such notice, the notified party shall have two (2) Business Days to select one (1) of the proposed mediators as the mediator, failing which the Party providing notice shall select one (1) of its proposed mediators as the mediator. Within seven (7) Business Days following selection of the mediator the matter shall be heard by the mediator.
- (c) The mediator shall be entitled to establish his or her own practices and procedures. Each Party shall co-operate fully with the mediator and shall present its case to the mediator orally and/or in writing within (10) Business Days following the mediator's appointment. The mediation shall not be in the nature of arbitration as contemplated by the *Arbitration Act* and the mediator's decision shall not be binding upon the Parties, but shall be considered as a bona fide attempt by the mediator to judiciously resolve the Dispute. The decision of the mediator shall be rendered in a written report, not to exceed two (2) pages in length, delivered to the Parties within (10) Business Days following the last of such presentations. The fees of the mediator shall be shared equally by the Parties.

18(5) The mediation shall be terminated:

- (a) By the execution of a settlement agreement by the Parties; or
- (b) By a written declaration of one or more parties that the mediation is terminated; or
- (c) By a written declaration by the mediator that further efforts at mediation would not be useful.

18(6) The place of mediation shall be the City of Saint John and Province of New Brunswick.

### **C. Arbitration**

18(7) In the event that the Parties are unwilling to mediate their Dispute or that the Dispute between the Parties remain unresolved after mediation has been attempted in good faith, then either the City or the Consultant, upon written notice to the other, may refer the Dispute for determination to a Board of Arbitration consisting of three (3) persons, one (1) chosen by and on behalf of the City, one (1) chosen by and on behalf of the Consultant and the third chosen by these two.

18(8) In case of failure of the two arbitrators appointed by the Parties hereto to agree upon a third arbitrator, such third arbitrator shall be appointed by a Judge of the Court of Queen's Bench of New Brunswick.

18(9) No one shall be appointed or act as arbitrator who is in any way interested, financially or otherwise, in the conduct of the work or in the business or other affairs of either Party.

18(10) Notwithstanding the provisions of the *Arbitration Act*, the Board of Arbitration, upon such terms and conditions as are deemed by it to be appropriate, may allow a Party to amend or supplement its claim, defence or reply at any time prior to the date at which the Parties have been notified of the arbitration hearing date, unless the Board of Arbitration considers the delay in amending or supplementing such statements to be prejudicial to a Party. The Board of Arbitration will not permit a Party to amend or supplement its claim, defence or reply once the arbitration hearing has been scheduled.

18(11) The Board of Arbitration may encourage settlement of the Dispute and, with the written agreement of the Parties, may order that mediation, conciliation or other procedures be used by the Parties at any time during the arbitration proceedings to encourage settlement.

18(12) If, during the arbitration proceedings, the Parties settle the Dispute, the Board of Arbitration shall, upon receiving confirmation of the settlement or determining that there is settlement, terminate the proceedings and, if requested by the Parties, record the settlement in the form of an arbitration award on agreed terms.

18(13) Subject to subsection 18(14), any determination made by the Board of Arbitration shall be final and binding upon the Parties and the cost of such determination shall be apportioned as the Board of Arbitration may decide.

18(14) Either Party may appeal an arbitration decision to The Court of Queen's Bench of New Brunswick: (i) on a question of law; or (ii) on a question of fact; or (iii) on a question of mixed fact and law.

18(15) The place of arbitration shall be the City of Saint John and Province of New Brunswick and the provisions of the *Arbitration Act*, R.S.N.B. 2014, c. 100, shall apply to the arbitration.

**D. Retention of Rights**

18(16) It is agreed that no act by either Party shall be construed as a renunciation or waiver of any rights or recourses provided the Party has given the notices required under section 18 and has carried out the instructions as provided in section A of this Part.

18(17) Nothing in section 18 shall be construed in any way to limit a Party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of New Brunswick and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that Party may have under section B of this Part to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

**19. Force Majeure**

19(1) It is agreed between all Parties that neither Parties shall be held responsible for damages caused by delay or failure to perform his undertakings under the terms and conditions of this Agreement when the delay or failure is due to strikes, labour disputes, riots, fires, explosions, war, floods, acts of God, lawful acts of public authorities, or delays or defaults caused by common carriers, which cannot be reasonably foreseen or provided against. After ninety (90) consecutive or cumulative days of the suspension of Party's obligations due to force majeure, the other Party may terminate the Agreement.

**20. Time**

20(1) This Agreement shall not be enforced or bind any of the Parties, until executed by all the Parties named in it.

**21. Notices**

21(1) Any notice under this Agreement shall be sufficiently given by personal delivery or by registered letter, postage prepaid, mailed in a Canadian post office and prepaid courier, addressed, in the case of notice to:

<b>The City:</b>	<b>CONSULTANT:</b>
Municipal Operations	Consultant Engineering Firm
City of Saint John	Street Address
175 Rothesay Avenue	Suite Number
Saint John, NB	City, Province
E2J 2B4	Postal Code
Telephone: 506-658-4455	Telephone: xxx-xxx-xxxx

or to any other address as may be designated in writing by the Parties and the date of receipt of any notice by mailing shall be deemed conclusively to be five (5) calendar days after the mailing.

**22. Reference to Prior Agreement**

22(1) This Agreement supersedes and takes the place of all prior agreements entered into by the Parties with respect to the consulting engineering services for **Conceptual Design and Investigation for the Courtney Bay Causeway** project.

**23. Amendments**

23(1) No change or modification of this Agreement shall be valid unless it is in writing and signed by the Parties.

**24. Acknowledgment of Terms and of Entirety**

24(1) It is agreed that this written instrument embodies the entire agreement of the Parties with regard to the matters dealt with in it, and that no understandings or agreements, verbal or otherwise, exist between the Parties except as expressly set out in this instrument or as set out in the Request for Proposal or the Proposal or any written clarification(s) or addendum(s) that are included as part of this Agreement.



**25. Further Documents**

25(1) The Parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this Agreement.

**26. Validity and Interpretation**

26(1) Paragraph headings are inserted solely for convenience of reference, do not form part of this Agreement, and are not to be used as an aid in the interpretation of this Agreement.

26(2) The failure of the Parties to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered a waiver of any right thereafter to insist upon strict adherence to that term or condition or any other term or condition of this Agreement.

26(3) The Schedules to the Agreement form part of and are incorporated into the Agreement as fully and effectively as if they were set forth in the Agreement.

**27. Governing Law**

27(1) This Agreement shall be governed by and construed in accordance with the laws of the Province of New Brunswick and the federal laws of Canada applicable therein.

**28. Successors, Assigns**

28(1) This Agreement shall enure to the benefit of and be binding on the successors and assigns of the City and on the successors and permitted assigns of the Consultant.

**29. Severability**

29(1) It is intended that all provisions of this Agreement shall be fully binding and effective between the Parties, but in the event that any particular provision or provisions or part of one is found to be void, voidable or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed severed from the

remainder of this Agreement and all other provisions shall remain in full force.

**30. Independent Legal Advice**

30(1) The Parties acknowledge having obtained their own independent legal advice with respect to the terms of this Agreement prior to its execution.

**31. Acknowledgment of Receipt of Copy**

31(1) Each Parties acknowledge receipt of a true copy of this Agreement.

DRAFT



PROVINCE OF NEW BRUNSWICK

I, **Signing Officer**, of the City of **City Name** and Province of **Province Name**,  
**MAKE OATH AND SAY:**

1. That I am **Signing Officer**, **Signing Officer's Corporate Title** of **Consultant Engineering Firm**, a Consultant named in the foregoing instrument and have custody of the corporate seal of the said company and am duly authorized to make this affidavit.
2. That the corporate seal affixed to the foregoing agreement and purporting to be the corporate seal of **Consultant Engineering Firm**, is the corporate seal of **Consultant Engineering Firm**, a Consultant named in the foregoing instrument and it was affixed by the officers authorized to so affix the seal.
3. That the signature of "**Signing Officer**", is my signature, and as the **Signing Officer's Corporate Title**, I am duly authorized to execute the said instrument.
4. THAT the said document was executed as aforesaid at the City of **City Name** in the Province of **Province Name** on the \_\_\_\_\_ day of **Month, Year**.

SWORN TO before me at )  
**City**, in the Province of )  
**Province** )  
the \_\_\_\_\_ day of **Month, Year** )  
)  
)  
)  
\_\_\_\_\_)  
Commissioner of Oaths )  
)

\_\_\_\_\_  
**Signing Officer**