



City of Saint John

Request for Proposal

2024-091015P

**“LANDSCAPE ARCHITECTURAL DESIGN SERVICES –
KING’S SQUARE PATHWAYS AND AREA IMPROVEMENTS”
SAINT JOHN, NB**

Sealed proposals, hand delivered or couriered, addressed to:

**Monic MacVicar, CCLP, CPPB, Procurement Specialist
Supply Chain Management,
Municipal Operations Complex, 1st Floor
175 Rothesay Avenue
Saint John, NB E2J 2B4**

and marked on the envelope:

**“PROPOSAL 2024-091015P
LANDSCAPE ARCHITECTURAL DESIGN SERVICES –
KING’S SQUARE PATHWAYS AND AREA IMPROVEMENTS”**

will be received until **4:00:00 p.m. Local Time, Wednesday, January 15, 2025**, for Landscape Architectural Design Services for the above noted project, as per the Request for Proposal.

The lowest cost or any proposal not necessarily accepted.

**Monic MacVicar, CCLP, CPPB
Procurement Specialist
Supply Chain Management**

TABLE OF CONTENTS

1. General.....	1
2. Project Description	1
3. Professional Services Required	3
Part A) Site Surveys, Preliminary Investigation and Data Collection	3
Part B) Conceptual Designs, Cost Estimates and Conceptual Design Report	5
Part C) Conduct Consultation Process.....	6
4. Method of Payment	7
5. Termination of Contract	7
6. Content of Proposal.....	8
7. Evaluation Criteria	9
8. Insurance Requirements.....	10
9. Formality Clause.....	10
10. Standard Terms and Conditions	11
11. Submittals	15
12. Enquiries.....	16
13. Attachments.....	16
14. Other Relevant Documents	16
15. Submission of Proposals	16

Appendix A – Digital Drawing Standards

Appendix B – Draft Consulting Agreement

Scope of Work
Request for Proposal 2024-091015P

Landscape Architectural Design Services –
King’s Square Pathways and Area Improvements

1. GENERAL

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

All landscape architects working on this project for the City must be licensed to practice landscape architecture in the Province of New Brunswick. All engineers working on this project for the City must be a current member or licensee with the Association of Professional Engineers and Geoscientists of New Brunswick (APEGNB). All Landscape Architectural and Engineering companies working on this project for the City must have a current certificate of authorization with AANB and/or 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 site investigations, design and all other important aspects forming part of the scope of work.

The consultant must aggressively and proactively 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 consultant shall prepare multiple conceptual design options for the renewal of and improvements to the pathways in King’s Square as well as the surrounding area within the Square.

The project includes but is not limited to:

- Prepare a minimum of three conceptual design options for upgrades to the King's Square pathways and surrounding area. These conceptual designs shall include but not be limited to subsurface pathway structure, surface finishes and surface features (including such aspects as furniture, lighting, landscaping, etc.) The pathway subsurface structure and surface finish shall be designed to withstand the weight of vehicles expected to be required to complete maintenance work in the Square. Budgetary cost estimates will be required to accompany the conceptual designs for evaluation and discussion purposes.
- The City's intention is to build off the Ihtoli-maqahamok - The Gathering Space and the South Market Street designs to rejuvenate King's Square.
- Conceptual design options shall preserve the historical features of the area.
- This project will not include any work on the bandstand and monuments within King's Square, however, these elements shall be incorporated into the proposed design.
- Resetting the stairs and granite blocks in King's Square (facing King Street) should be included in the project.
- Recommendations should be given on maintaining existing underground infrastructure versus renewing underground infrastructure. Underground infrastructure includes but is not limited to storm sewer piping and appurtenances, 400mm diameter cast iron watermain, electrical conduit, etc.
- Required maintenance should be considered by the consultant when proposing the various conceptual designs options.
- The conceptual design options for the pathways in King's Square shall be accessible to all ability levels.
- The consultant shall engage arborists to assess any impacts to the trees in the Square. The intention will be to work around existing trees within King's Square as much as possible.

The consultant shall provide a written report with the proposed upgrade options and associated budgetary pricing for each option (budgetary cost estimates shall include allowances for design and inspection services, as well as contingencies, in addition to construction costs). The consultant shall be available to present the conceptual designs to City staff and field any questions.

The consultant shall consider affordability when looking at options. The City does not want conceptual design concepts that are unattainable from a funding perspective. Upgrades are necessary but the proposed options shall be reasonable.

Once City staff has determined the preferred conceptual plan, the consultant shall provide phasing options. It is the City's intention that, as Capital Funding becomes available, the City will be able to complete the Works in a phased approach based on the consultant's recommendations.

The City would prefer that Parts A, B and C, including the finalized report, be completed by the end of July 2025.

3. PROFESSIONAL SERVICES REQUIRED

The following professional services are required:

PART A) SITE SURVEYS, PRELIMINARY INVESTIGATION AND DATA COLLECTION

Topographic Survey - topographic surveys and the drawings shall use the following horizontal and vertical datum: NAD 83 (CSRS) New Brunswick Double Stereographic Projection and the Canadian Geodetic Vertical Datum of 1928 (CGVD28).

The location survey shall include but not be limited to all structures, buildings, property pins, curblines, sidewalks, poles, ditches, services, utilities (incl. Saint John Energy, NB Power, Bell, Rogers, natural gas, etc.), valves, hydrants, manholes, catch basins, etc.

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

Existing Conditions Review:

The existing conditions review shall be completed for all projects. The review shall consist of an Existing Conditions Report with the following deliverables:

- **Structure Inspection** – The consultant shall open all structures including chamber, manhole and catch basin covers, taking all necessary invert elevations, survey shots, measurements and photos as required to collect all pertinent information such as pipe material and diameter and condition of structure.
- **Existing Infrastructure Review** – The consultant shall investigate existing infrastructure by reviewing all digital and paper records available from the City and other utilities. The consultant shall contact the respective utility

owners of all buried infrastructure to confirm what is in the ground, and request field locates as required.

- **Conflicting Information** – The consultant shall alert the Engineer to any conflicting information and also contact the appropriate utility to clarify the ambiguities.

Existing Conditions Drawings:

- The consultant shall compile all existing record information of the proposed construction work areas. At a minimum, this shall include record drawings, Red Book Notes, Service Pipe Reports, etc.
- The consultant's topographic survey shall pick-up all surface features and buried utilities with a high degree of accuracy obtained from state of the art survey equipment.
- The consultant's plans must note the survey datum and all the monuments used to establish elevations.
- The consultant shall be responsible for confirming all key structure inverts.
- Plans must note the survey datum and all the monuments used to establish elevations.
- No other documents or record information, other than information attached to this Request for Proposal, will be made available during the proposal stage. Once the proposal is approved, the City's record drawings and data will be made available to assist in the creation of the new designs and drawings, 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 collect record data from all other utilities that have services along the corridor of interest, having them mark out their infrastructure in the field and have the consultant's survey crew pick up this data. It should be noted that the consultant will have to hire a private company to locate the electrical underground infrastructure in King's Square. The consultant shall allow for this when determining the fees for this project.

PART B) CONCEPTUAL DESIGNS, COST ESTIMATES AND CONCEPTUAL DESIGN REPORT

The consultant must carry out all designs in accordance with the latest editions of the following documents:

- City of Saint John - City Market Strategic Plan;
- City of Saint John - Plan SJ;
- City of Saint John - Central Peninsula Secondary Plan;
- City of Saint John – General Specifications;
- City of Saint John – Storm Drainage Design Criteria Manual *[Shall also include for an allowance for sea level rise and climate change]*;
- City of Saint John - Municipal Street Lighting Best Management Practice (available for download from the City's website);
- Climate Change Adaptation Plan for Saint John;
- Atlantic Canada Wastewater Systems Guidelines;
- Atlantic Canada Water Supply Guidelines; and
- Canada-wide Strategy for the Management of Municipal Wastewater Effluent endorsed by the Canadian Council of Ministers of the Environment (CCME).

The conceptual designs shall be AutoCAD drawings, with labelled site plans and labelled cross sections. The consultant shall also provide renderings of the conceptual design options.

Draft Conceptual Design Report – The consultant shall present the Draft Conceptual Design Report encompassing all aspects of this project to the City's Technical Review Team to discuss findings, solutions and conceptual design options. This report shall also include renderings of each option so staff can easily envision the options.

The report must compare the different options, discussing the pros and cons of each option and how the cost will be impacted.

The consultant shall provide digital files and at least six (6) hard copies of the draft conceptual design report for the City to review.

All reports and drawings must be **signed and stamped** by the consultant's landscape architect and professional engineer as appropriate. All reports submitted to the City shall become the property of the City, which may be used and redistributed as the City sees fit.

PART C) CONDUCT CONSULTATION PROCESS

Saint John Ability Advisory Committee:

After the City has determined the preferred conceptual design options, the consultant shall present these options to the Saint John Ability Advisory Committee (SJAAC) to receive their feedback. This presentation shall take place at one of the committee's regularly scheduled monthly meetings. The consultant shall address the questions and comments received from the SJAAC during the meeting and document what was discussed.

Public Consultation:

The consultant shall arrange and host two (2) public information sessions on one day (2:00 to 4:00 pm and 6:00 to 8:00 pm) at a location close to the project site. The proposed location must be fully accessible. The consultant shall be responsible for booking the venue and the costs associated with the public meeting venue. The consultant shall be responsible for translating all material for the public meetings.

The consultant shall have large-scale drawings, renderings and project information sheets detailing limits of work, photos and other visual aids to show the proposed conceptual designs to the public and media. The consultant shall be available for questions and collect/address comments from residents, business owners and the general public.

All materials for public information shall be presented in both English and French (professional translation required) as per the City of Saint John policy. The consultant shall also have a bilingual member of staff attend the public information session.

The public information sessions shall be advertised on the City's website and project information letters shall be distributed by the consultant to all residents and businesses within the area advising them of the information sessions.

The City will also post the conceptual designs under Shape Your City on the City's website. The consultant will be required to provide content for the City's Shape Your City site. The consultant shall respond to comments and questions about the project received (through City staff).

The consultant shall update the Draft Conceptual Design Report, summarizing the concerns and comments received through the Consultation phase. The consultant shall include recommendations in the Report on how these concerns and comments can be addressed to meet the needs of the community and the City of Saint John (Engineering Services). The finalized Conceptual Design Report shall include updated cost estimates and phased planning.

The consultant shall submit two (2) hard copies and one (1) digital copy of the finalized Conceptual Design Report.

All reports and drawings must be **signed and stamped** by the consultant's landscape architect and professional engineer as appropriate. All reports submitted to the City shall become the property of the City, which may be used and redistributed as the City sees fit.

4. METHOD OF PAYMENT

Upon award of the contract the City will execute an agreement with the successful landscape architectural consultant firm for the work to be performed.

The consultant shall invoice the City monthly for the work performed in accordance with the landscape architectural 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).

Payment of fees shall be in accordance with the terms of the *Request for Proposal* at the rates submitted and accepted in the consultant's proposal. The hourly rates submitted in the proposals shall adhere to industry standards based on the relevant experience of each team member.

Parts A, B and C - Maximum or upset fees (including HST) will be included in the proposal for Part A, Part B and Part C 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 a contingency of \$20,000 plus HST 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 Landscape Architectural Firm at any other time during the course of 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, by virtue of 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 their role. 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.

The City would prefer that Parts A, B and C, including the finalized report, be completed by the end of July 2025. When preparing a schedule, the consultant must 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 each of parts A, B and C
- 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).
- The consultant must submit the cost breakdown in the following matrix format.

Sample format for financial proposal breakdown:

Project	Part A	Part B	Part C	Contingency	Sub-total (\$)	HST (15%)	Grand Total (including HST) (\$)
				\$20,000.00			

The financial proposal shall include separate prices (including reimbursable expenses) for each of Part A, Part B and Part C.

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

7. EVALUATION CRITERIA

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

- a) **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)**
- b) **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)**
- c) **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)**
- d) **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 = 70 points)**
- e) **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 = 5 points)**

- f) **COST** – Cost will be a factor, however not the only factor to be considered. **(Criteria weight = 60 points)**

Consultants are advised that proposals will be evaluated solely on the basis of information submitted in accordance with 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 prior to 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 consultants in connection with this project;
- Products and completed operations coverage;
- Contractual liability with respect to this project;
- The City of Saint John added as 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

In order for the City of Saint John to consider any proposal submission as a legally binding offer, on behalf of the consultant, it is necessary for the consultant to communicate this formality to the City in the form of an offer which

contains the original signature of the individual or representative of the firm who is authorized to act on behalf of the consultant.

In order to meet this requirement, all proposal submissions to the City of Saint John must be prefaced with a covering letter which contains an original signature of the individual authorized by the consultant to submit proposals on their behalf.

The covering 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 make reference in 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 and finally, the letter must contain the original signature as indicated.

Failure to include the required covering 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 direct bearing on the cost of a project and will influence bidding. Therefore, it is important that the City have assurances that bidders have in-fact 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) 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 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) under the menu option "Tenders and Proposals".

Bidders are instructed to sign the Advisory Notice and return it by email to supplychainmanagement@saintjohn.ca prior to the closing date.

Failure to comply with the instructions on an advisory may result in 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 its own costs related to such meeting.

Additional Information from Proponents

The City of Saint John reserves the right during evaluation of the bids to seek further information from any proponent and to utilize that information in evaluation and 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 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 prior to 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 which 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 the purpose of this section, an unbalanced Proposal is a Proposal containing a unit price which deviates substantially from, or does not fairly represent, reasonable and proper compensation for the unit of work bid or one that contains prices which 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, any time 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 on the basis of
 - i. information provided by references;
 - ii. the bidder's past performance on previous contracts;
 - iii. information provided by a bidder pursuant to 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 which 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 by reason 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 award will be the only form of debriefing offered by the City;
- b) In the case of Requests for Proposals valued **in excess** of Fifty Thousand Dollars **(\$50,000.00)**, the Purchasing Agent may, in addition to the notification of 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 paragraph (ii) shall be submitted to the Office of the Purchasing Agent no later than fifteen (15) business days after the notification of 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 **4:00:00 pm Local Time on Tuesday, January 7, 2025**, only to the attention of:

Monic MacVicar, CCLP, CPPB
Procurement Specialist
Supply Chain Management
Email: 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. ATTACHMENTS

- Appendix A – Digital Drawing Standards
- Appendix B – Draft Consulting Agreement

14. OTHER RELEVANT DOCUMENTS

- City of Saint John - City Market Strategic Plan (latest edition);
- City of Saint John - Plan SJ (latest edition);
- City of Saint John - Central Peninsula Secondary Plan (latest edition);
and
- City of Saint John – General Specifications (latest edition).

15. SUBMISSION OF PROPOSALS

Consultants shall deliver six (6) copies of the Technical Proposal and supporting information and six (6) copies of the Financial Proposal no later than **4:00:00 pm, Local Time, Wednesday, January 15, 2025**, clearly indicating the consultant's name and address and marked "**Proposal: 2024-091015P - Landscape Architectural Design Services - King's Square Pathways and Area Improvements**", to the attention of:

Monic MacVicar, CCLP, CPPB
Procurement Specialist, Supply Chain Management

City of Saint John
175 Rothesay Avenue, 1st 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, by virtue of 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: 2024-091015P - Landscape Architectural Design Services - King's Square Pathways and Area Improvements**", with the consultant's name and address.
- (5) Consultants must propose on the entire project – incomplete proposals will be rejected.

APPENDIX “A”

DIGITAL DRAWING STANDARDS

PURPOSE

The development of Geographic Information Systems (GIS) and computer aided drawing (CAD) has facilitated the method to reduce the time and costs of development processing and land use map updates. Hence, a digital drawing submissions standard has been adopted by the City of Saint John to set the standard and facilitate the transfer process. The intent of this program is to take advantage of new technology, reduce the cost of digital conversion, maintain the mapping and facilitate the efficient transfer of data from private organizations to the City.

The standards and specifications contained within this document shall be used for digital drawing submissions to the Engineer for the purpose of development processing and GIS digital land use map updates.

DIGITAL FORMAT

1. The Consultant shall provide to the Engineer an As-Built record of the project which will include: all required documentation, CAD files and any associated digital files as described below in both **printed** and **digital** versions.
2. All CAD drawings shall be submitted in AutoCad (.DWG or .DXF) format with all line work complete. Each CAD project shall include all relevant resource files such as line & font resource and AutoCAD (.shx) resource files. The Consultant also shall provide the **drawings in PDF format**. This shall be a direct conversion, not a scan.
3. The City of Saint John will provide drawing file names for the legend portion of the drawing.
4. Each CAD project shall be accompanied with an ASCII text file of all as-built structure locations as well as any existing underground structure within the limits of the project. This text file is to be used for importing record information and existing structure locations into the City's GIS. The text file shall meet the following conditions:
 - ASCII text file will include as-built structure locations such as catch basins, gate valves, manholes, air valves, outfalls, service boxes or any existing underground structure within the limits of the project.

- ASCII text file shall **only** include all as-built structure locations as well as any existing structures within the limits of the project and shall not contain other coordinated points such as curb shots, utility poles, corners of buildings, etc. This ASCII text file is to be used for importing structure locations into the City's GIS.

All coordinated points for the structures shall be delivered in a single comma-delimited ASCII text file. Each line of the file shall contain coordinate values (NAD83 CSRS Horizontal and HT2 Vertical) for a single point as follows:

Pt Number,Northing,Easting,Elevation,Field Code (Numeric)

1,7362284.223,2533177.653,15.207,3
 2,7362028.622,2533004.711,25.695,16
 3,7362009.446,2532991.590,25.935,4

The field code in the ASCII text file shall be City of Saint John field codes (i.e. Numeric Field Codes).

City of Saint John Field Codes			
3	CB EXIST CENTER	50	CATCHBASIN MANHOLE
4	CB EXIST EDGE	51	CATCH BASIN PYRD TOP
6	CULVERT	54	DRAIN TILE
14	FIRE HYDRANT	58	MH CP TELEGRAPH
16	GATE VALVE EXISTING	69	UTILITY HYDRO BOX
24	MANHOLE EXIST	70	UTILITY TEL BOX
25	HYDRO MANHOLE	71	UTILITY CABL BOX
26	TELEPHONE MANHOLE	79	NEW SANITARY MANHOLE
27	OTHER	80	NEW STORM MANHOLE
46	WATER TRACE	81	NEW CB EDGE
43	UTILITY BOX	82	NEW CB CENTER
44	SERVICE BOX	83	NEW FIRE HYDRANT
45	VAULT	1205	GATE VALVE NEW

DRAWING DOCUMENTATION

1. The horizontal and vertical datum utilized shall be identified as NOTE 1 on all engineering drawings prepared for the City of Saint John. The horizontal and vertical datum shall be NAD 83 (CSRS) New Brunswick Double Stereographic Projection and the Canadian Geodetic Vertical Datum of 1928 (CGVD28).

2. All record drawings are to be marked on the title block in an obvious fashion with the text “Record Drawing” on the CAD files and printed copies of the drawings.
3. Each CAD project shall be accompanied with documentation to indicate CAD layers.
4. All required drawing documentation shall be summarized on a transmittal sheet submitted in both printed and digital versions. The transmittal sheet shall include:
 - Job Title
 - Company/ Firm
 - Contact Person
 - Address
 - Email Address
 - Phone
 - List of attachments and digital files
 - Record Drawings (one (1) set) on High Quality Bond Paper

MEDIA

1. All electronic files shall be in a format acceptable to the City.
2. All submitted digital files shall include a transmittal with the project title, contract number, contractor, consultant name, date of submittal, and list of contents.
3. Plans are to be produced on ISO **A1** paper size no larger than 600 x 900mm.

THIS **CONSULTING AGREEMENT** made in triplicate this _____ day of XXX, 2025 (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 -

XXXXXXXX, an extra-provincial corporation registered under the Business Corporations Act, having its head office in the City of XXXX, Province of New Brunswick, hereinafter called the “Consultant”,

OF THE SECOND PART

WHEREAS, the City issued a Request for Proposal 2024-091015P for Landscape Architectural Design Services – King’s Square Pathways and Area Improvements [hereinafter referred to as the “Request for Proposal”] attached hereto as Schedule “A”;

WHEREAS, the Consultant submitted a Proposal with respect to the Request for Proposal on XXXXX, 2025 [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 Landscape Architectural Design Services – King’s Square Pathways and Area Improvements;

WHEREAS, Common Council enacted a By-law Respecting the Delegation of Authority to Award or Approve Contracts on the 26th day of June 2023, which authorizes the Mayor and City Clerks to execute any Contract awarded or approved by the CAO, Commissioners or Directors of the City within their respective spending limits authorized under the Strategic Procurement Policy;

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 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) **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 firm referred to as XXXXXXXX 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 Utilities and Infrastructure Services Department 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 consulting services for King's Square Pathways and Area Improvements;

1(12) **Proposal** means the proposal submitted by the Consultant entitled Landscape Architectural Design Services – King's Square Pathways and Area Improvements (Proposal # 2024-091015P);

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; and

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) Site Surveys, Preliminary Investigation and Data Collection;
- (b) Conceptual Designs, Cost Estimates and Conceptual Design Report;
and
- (c) Conduct Consultation Process.

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 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. 1999, Chapter 50, 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*, SNB 2014, c 100, 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 ten (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*, SNB 2014, c 100, 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*, SNB 2014, c 100, New Brunswick, 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:

The City:

CONSULTANT:

Municipal Operations
City of Saint John
175 Rothesay Avenue
Saint John, New Brunswick
E2J 2B4

XXXXXX
XXXXXX
XXXXXX
XXXXXXX
XXXXXX

Telephone: 506-658-4455

Telephone: XXXXXX

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 services for King's Square Pathways and Area Improvements.

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.

(The remainder of this page is intentionally left blank)

PROVINCE OF NEW BRUNSWICK

I, **XXXXX**, of the City of XXXXX and Province of XXXXX, **MAKE OATH AND SAY:**

1. That I am the XXXX of XXXXXXXX, 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 XXXXXXXX, is the corporate seal of XXXXXXXX, 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 "XXXX", is my signature, and as the President of XXXXXXXX, I am duly authorized to execute the said instrument.

4. THAT the said document was executed as aforesaid at the City of Saint John and Province of New Brunswick on the ____ day of XXXX, 2025.

SWORN TO before me at)
the City of Saint John, in the)
Province of New Brunswick)
the ____ day of XXXX, 2025)
)
)
)
_____)
Commissioner of Oaths,)
)

XXXXXX