

## REQUEST FOR QUALIFICATION (RFQ)

PROPOSAL: **Flood Mitigation – Project Management**

DATE: **June 30, 2021**

INITIATOR: **Darryl Drohomerski, C.E.T., Chief Administrative Officer**

### DATE PROPOSAL REQUIRED:

YEAR: **2021** MONTH: **July** DAY: **20** TIME: **2:00 PM Local Time**

### Submit Proposal via email to the attention of:

Procurement Department:  
Town of Drumheller  
224 Centre Street  
Drumheller, Alberta T0J0Y4

**Email submission:** [purchasing@drumheller.ca](mailto:purchasing@drumheller.ca)

**“RFQ - Flood Mitigation - Project Management” TOD RFQ 2021-21”**

This Request for Qualification document is comprised of:

- RFQ General Instructions
- Schedule A – Proposal Submission Form
- Schedule B – Non-Disclosure Form

If you do not have all of these components the RFQ package is incomplete - please contact the Initiator.

Your firm is invited to submit a Proposal, pursuant to the general conditions for the scope of work as described. This Proposal shall not be considered authorization to proceed with work herein described. All Procurement processes must comply with Town of Drumheller Purchasing Policy C-09-20.

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## 1. INVITATION

### Project Overview

The Town of Drumheller, recognized as the “Dinosaur Capital of the World”, is rich in geological and paleontological history. The breathtaking landscapes surrounding Drumheller are unique in Canada and draw hundreds of thousands of visitors every year.

The Town of Drumheller is a flood community and major floods have occurred in 1902, 1915, 1932, 1954, 1991, 2005, 2013, and 2018. While some areas in Drumheller have existing flood mitigation infrastructure, additional work is needed to improve upon Drumheller’s level of flood mitigation and resiliency.

The Town of Drumheller has chosen to make significant investment to mitigate flooding throughout the Valley. In June of 2018 the Town began the process of applying to the Federal and Provincial Governments for financial assistance to implement a long-term strategy. In 2019 the Town was approved for \$55M in funding through the Government of Canada’s Disaster Mitigation and Adaptation Fund, the Government of Alberta’s Community Resiliency Program, and from the Town of Drumheller to undertake flood mitigation works throughout the Valley. The work was to be completed by 2024. Council’s Vision is:

*Through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage.*

In 2020 preliminary design work commenced to identify areas requiring additional flood mitigation works and to identify property acquisition requirements. During 2020 the Flood Office developed a Design Team for the project. The Design Team is comprised of the following consultants:

- Scott Land and Lease Ltd. (SLL) – Land Agent
- Hunter Wallace Surveys Ltd. (HWS) – Legal Surveys
- Northwest Hydraulic Consultants Ltd (NHC) – Hydraulic Modelling
- Parkland Geotechnical Consulting Ltd. (PGS) – Geotechnical Engineer
- Landscape Architects:
  - Ground Cubed Inc.
  - IBI Group
- Engineering Design
  - Klohn Crippen Berger (KCB)
  - Kerr Wood Leidal Associates Ltd (KWL)
  - Sweet Tech Engineering Consultants (SWT)
  - Wood Environment & Infrastructure Solutions (Wood)

The Flood Mitigation Program consist of 12 major projects; additional projects may be added depending on funding availability. Provide below is a list of each of the major projects, engineering design firm and anticipated construction schedule.

<b>Project</b>	<b>Consultant</b>	<b>Construction Schedule</b>
Nacmine	Wood	2022
Midland	KCB	2023
Newcastle	KCB	2023
North Drumheller (Dike A, B ,& C)	KWL	2022
Drumheller (Dike D)	SWT	2022
Drumheller Willow Estates	Wood	2022
Rosedale Highway 10X	KWL	2024
Rosedale Scarlett	KWL	2024
East Rosedale	Wood	2023
Cambria	KWL	2024
East Coulee	Wood	2024
Lehigh	Wood	To Be Confirmed

In 2019, the Town created the Drumheller Resiliency and Flood Mitigation Office (DRFMO) to oversee implementation of the flood program. In June 2021 Council decided to make a change in management, thus facilitating the need for new Project Management team.

You or your organization’s proposal for Project Management (Services) to the Town via the project office has a commencement date planned for August 1, 2021 and the Services would be provided on a contracted basis. The individual or organization proposing to provide the Services is referred to in this request as the “Proponent.”

The Scope of Services sets out the detailed tasks, duties, expectations and responsibilities. Also provided is the approach that could be considered in the provision of the Services. It is not necessarily expected that you or your organization would deliver the Services in the same manner. Your proposal may include an alternative or varied approach to the delivery of the Services with various duties and responsibilities allocated among a number of different individuals. As well you may wish to propose different arrangements for financial services and a different administrative center from that which would be provided by the Town.

Your submission should address the following:

- Relevant Capabilities and Experience that would demonstrate the ability of you or your organization to effectively provide the services required;
- Individuals who would be involved in the delivery of services to the Town, their intended role and their experience and qualifications;
- Length of Term of Contract – It is envisioned that the Term of the Services will be for five (5) years from August 2021 to summer 2025. Construction is to be completed Fall 2024 with final reporting and post construction services being completed summer 2025;
- Approach to the delivery of the services;
- The basis for determining Fees and Charges to the Town for providing the Services.

You are asked to identify:

- Project Lead and Team;
- Project Management experience on similar projects in particular with projects overseeing number of engineering consultants and disciplines;
- The charge out rates for specific people based on time or other units that you would propose through the term of the contract;
- If not prescribed specifically, how future increases in fees and variable charges would be determined.

## 2. PROPOSAL MANDATORY REQUIREMENTS

Proposals must comply with the following requirements in order to be considered by the Town. It will be at the Town's sole discretion to determine if a Proposal shall be disqualified due to insufficient or incomplete information.

### Rejection of Proposals

The Town shall not be obligated to accept Proposals that are unsigned, incomplete, conditional, illegal, or contain irregularities of any kind or if the Proponent fails to meet all the requirements stated in this Request. The Town also reserves the right to disqualify any Proponent's submission whose credentials or performance have been unsatisfactory in the past.

### Town's Discretion

Funding contribution agreements require, insofar as practicable, that public solicitation be made for contracts carried out under this funding arrangement. The Town reserves the right to accept any Proposal, and not necessarily the lowest cost Proposal.

### Submissions

Proposals are to be **submitted via email** to the email address provided clearly marked "**TOD RFQ #2021-21 Flood Mitigation Project Management**". The body of the proposal is to be provided in single pdf maximum 10Mb file size. Appendices and supporting documentation are to be provide in separate pdf attachment(s)

### RFQ Clarifications/Addenda

Proponents shall carefully examine the Request for Qualification Documents and report any errors, omissions, discrepancies or clauses requiring clarification. When deemed necessary, the Town shall respond to questions and clarifications by way of Addenda to report any changes to the Request for Qualification Documents. Any addenda issued prior to the closing date will form part of the Request for Qualification Documents.

### Question or Inquiries

Questions may be submitted via email and directed to the contact person listed below:

**Mark Steffler, P.Eng.**  
**Interim Flood Program Project Director**  
[msteffler@drumheller.ca](mailto:msteffler@drumheller.ca)  
Phone (403) 823-0382

### Proposal Review

The proposals will be reviewed by Selection Committee on a confidential basis on Wednesday, July 21 at which time the Selection Committee will shortlist those proponents that they wish to interview. If necessary, interviews, will be scheduled on Thursday, July 22 and Friday, July 23. Please keep those days tentatively open for an interview with the Selection Committee, should your proposal be selected for continued consideration.

Recommendations for appointment of the successful Proponent will be made for Council approval at the July 26, 2021 Regular Council Meeting.

### RFQ Cancellation

The Town reserves the right to cancel this Request for Proposal for any reason without any liability to any proponent or to waive irregularities and informalities at their own discretion. No payment will be made by the Town for costs incurred in the preparation or submission of this document.

### Insurance

The successful Proponent must be able to provide proof of the following insurance:

General Liability Insurance in an amount not less than Two Million Dollars (\$2,000,000) per occurrence for personal injury and/or property damage. Automobile Liability Coverage in an amount not less than Two Million Dollars (\$2,000,000) per accident for bodily injury and/or property damage.

Errors and Omissions Insurance covering the services provided by the Consultant with policy limits not less than One Million Dollars (\$1,000,000) per claim.

### Conflict of Interest

The Proponent shall have no pecuniary interest in the business of any third party that would cause, or seem to cause, a conflict of interest in carrying out any Consulting services for the Town. Should such an interest be acquired during the Proposal process, the Consultant shall immediately declare it to the Town. The Town will, immediately upon notification, take action as it deems appropriate. This may include rejection of the submitted Proposal.

### Proposal Confidentiality

All documents submitted to the Town will be subject to the protection and disclosure of the Alberta Freedom of Information and Protection of Privacy Act (FOIP ACT).

This project is highly sensitive in nature given the interest from the community regarding the possible impacts on residents and their properties. Supporting documentation summarizing the design criteria and each of the mitigation projects will be provided upon the execution of a Non-Disclosure Agreement (Appendix B).

## Proposal Format Requirements

Proposals shall not exceed **20 single sided pages, 8 1/2 X 11, 11 pt. font**. Cover letters, table of contents, organizational charts, personnel resumes, and appendices will not be considered in the number of pages.

## Qualifications and Experience

- Proponents are to explain why they are the best choice to provide the services as described in the Request for Qualification. Key strengths should be clearly identified. Provide summary and related references for at least three projects completed within the last five years, for which the Proponent has provided services. These reference projects must:
  - Be similar in nature to the project for which the Proposals are being sought; and
  - Have a required scope of services similar in nature to this project. The summary for each reference should include:
    - Name, location, and brief description of the project;
    - Name of client (owner) and contact information of client representative;
    - Identification of prime consultant (and sub consultant team), including names of key personnel;
    - Planned and actual start and completion dates, with an explanation of any signification deviations;
    - Original project budget and final project cost, with an explanation of any significant deviations;
    - Other pertinent information demonstrating the proponent's experience and past performance record.

## Key Staff and Qualifications

A resume shall be provided for each staff member that includes, but is not limited to, qualifications, education, experience, capability and current workloads. The Project Manger shall have at least ten (10) years of project management experience in delivery of multi discipline team flood management project. Two (2) client references and relevant projects shall be provided. The proposal shall include:

- Organizational chart identifying key personnel, roles and responsibilities;
- Location of key personnel;
- Anticipated project time commitment throughout the project.

## Project Understanding

Proponents are to provide a clear understanding of the objectives and critical issues that could affect the outcome of the project. The Proponent should include a clear explanation of their proposed approach. The Proponent shall also include any innovative comments and ideas pertaining to the project that may not have been addressed in the Request for Qualification as they see fit.

## Cost

Project fees will be negotiated with successful Proponent. Proposal are to include hourly rate schedule, disbursements, and estimation of annual rate increases for key project personnel.

### Additional Content

Proponents may at their discretion include additional information which they consider relevant to ensure a full and proper evaluation, provided that the specified maximum 20 page limit is not exceeded.

## **3. EVALUATION CRITERIA AND WEIGHTING**

Proposals meeting the mandatory requirements will be evaluated.

### Evaluation of Proposals

Each proposal received will be evaluated on the basis listed below. The Town of Drumheller will have the sole and unfettered discretion to award up to the maximum number of points for each criterion listed below.

By submitting a proposal, each Proponent acknowledges and agrees to waive any right to contest through legal proceedings. The decision to award points in respect to the criteria noted below will be at the sole discretion of the Town of Drumheller.

<b>CRITERIA</b>	<b>WEIGHTING</b>
Knowledge of Red Deer River Basin and Drumheller	15
Flood Management Project Experience	20
Project Manager Experience	35
Project Team Experience	25
Cost	5

The Proponent's responses to these technical requirements will be evaluated using a rating scale of 0 to 5. The rating will then be multiplied by the weighting as specified in the chart above. Each weighted score will be added to arrive at a total score. This scoring will assist the committee in evaluating the proposal but will not be the sole method of evaluation or selection. The fees /salary evaluation will be calculated by taking the lowest Proposal Price divided by each other Proponents Proposal Price. The calculated point for each proposal will then be multiplied by the weight indicated in the Evaluation Criteria and Weighting table.

<b>RATING</b>	<b>EXPLANATION</b>
5 -Excellent	Exceeds Requirement/Adds Value
4 - Above Average	Exceeds Minimum Requirements
3 - Average	Meets Minimum Requirements
2 - Below Average	Falls Short of Expectations. Lacking Innovation
1 - Poor	Falls to Meet Minimum Requirements
0 - Non-Responsive	Did Not Attempt to Address Requirement

### Proposal Feedback

All unsuccessful Proponents will be notified within two (2) business days after contract award.



## Communication

Proponents or bidders are required to ensure that no communication is made by the Proponent or its representatives, including a third-party representative employed or retained by it, to promote or oppose any Proposal, make any public announcement, or communicate with any news media in any way unless such communication has first been approved by the Town.

## Proposal Submission Form

The Proponents will complete the Proposal Submission Form provided in Appendix A and include a signed copy with the Proposal. In case of an incomplete or conditional Proposal, the Proponent will list the exceptions for a non-conforming proposal bid on a separate document and include in the Proposal.

## 4. SCOPE OF SERVICES

For this project the Proponent will undertake all actions and tasks that are required to administer, monitor, and direct all consultants and contractors necessary to ensure the completion of the Project.

The Proponents team will provide the following services:

- Project Manger is responsible for the full management of the Project Office and will act as the administrative head. The Project Manager shall report to the Chief Administrative Officer as signing authority for the Project;
- Design and Construction Coordination;
- Secretariat;
- Financial Controller;
- Communications.

### a. Project Management

- I. oversee, engage, coordinate and direct the various Project Consultants, Surveyors, Architects, Engineers, Planners, Landscape Architects and “other” contractors to maintain the economical and efficient operation, maintenance, upgrading and expansion of the Town’s systems and facilities; impacted or associated with this project;
- II. manage the performance and delivery of other contracted Services and purchased goods and materials for the Flood Mitigation;
- III. oversee the Land Agent, Legal Survey team and Town Legal Counsel in reviewing, negotiations and acquisition of property required to construct the proposed flood works;
- IV. work with design consultants and Land Agent to review impacts and land requirements for the purpose of land acquisition. Where necessary meet with property Owners to review land requirements and property impacts.
- V. consult with the Town’s Legal Counsel on legal matters affecting the Town related to the Flood Mitigation and Climate Adaptation System;
- VI. ensure that risks are properly identified, managed and mitigated and that proper insurance coverage is in place through the Town’s insurance providers;
- VII. maintain a good rapport and relationship with the Members of the Council, customers, government departments, regulatory authorities, suppliers and contractors;
- VIII. Keep the Mayor and CAO, apprised of relevant issues, incidents and matters of concern that may have impact on the Project;
- IX. Working with Communications Team, coordinate and attend public/resident engagement and open houses;
- X. attend and represent the interests of the Council at external meetings and other events;

- XI. Coordinate and be a liaison between the Design Consultants, Town, and Federal/Provincial approval agencies;
- XII. Liaison with Provincial and Federal funding agencies on matters related to funding eligibility, auditing, and reporting matters.

b. Design/ Construction Coordination

- I. Review of Design Team drawings;
- II. Review designs with Town operations staff;
- III. Review of cost estimating provided by the Design Team;
- IV. Schedule regular project coordination meetings with the project Team members;
- V. Assisting the Design Consultant in the preparation of contract documents, including review of drawings and specifications as well as options for tendering;
- VI. Reviewing questions received from stakeholders, Town personnel, residents, and the Team in support of the project;
- VII. Providing recommendations on construction feasibility, availability of materials, labour, time requirements for construction and factors related to cost;
- VIII. Overall project management, including adjustments based on the progress of work and specific recommendations for prioritizing and accelerating critical path items;
- IX. Consult with third party utilities regarding relocation of existing utilities, installation of temporary works, scheduling, and crossing/proximity agreements;
- X. Value engineering assistance and best construction practices recommendations;
- XI. Each Design Consultant will be responsible to oversee and manage construction of their projects. The Proponent will be a liaison between Contractors, Design Consultants, Town personnel, and residents during construction;
- XII. Maintain communication with Town Operations personnel to ensure input during design/construction, coordinate scheduling with Town projects and long-term maintenance obligations.

c. Secretariat

The Proponent will provide support and secretariat services to the Flood Mitigation which is to include:

- I. organize, maintain and keep safe the physical and electronic records and documents;
- II. collect and organize contracts, reports, logs and other supporting documentation necessary for project worksheets;
- III. undertake such administrative actions and tasks that may be administratively required to complete the project;
- IV. receive, act upon or distribute, and maintain log of;
  - a. incoming electronic mail and other communications;
  - b. communications received by post or delivery;
  - c. prepare and transmit or arrange delivery as may be applicable, outgoing communications;
  - d. prepare and submit written reports to the Council and funding partners for regular Board meetings, or monthly commitments;
- V. prepare and submit monthly, annual, and final grant claims;
- VI. finalize all land and construction contract matters ,
- VII. compile a complete set of records of the project;

- VIII. Management of Flood Project GIS system;
- IX. Integration of GIS and records with Town's file management system at completion of the project;
- X. Manage 3rd party contracts including the Design Consultant;
- XI. supervise and keep proper and complete books of account and records of the Towns obligations to the funding agencies;
- XII. Close out document review.

d. Communications

The Proponent will manage and coordinate the communications of the Flood Mitigation program. The Town has recently engaged Alchemy Communications on an interim basis to provide public engagement and coordinate communications with Drumheller residents. The Proponent may engage with Alchemy Communications or propose their own communications team to provide project communications. Alchemy Communications may be contacted at:

Kathryn Kolaczek, CEO  
 Phn: 403-819-2547  
 Email: [kathryn@alchemycommunications.ca](mailto:kathryn@alchemycommunications.ca)  
 Web Site: [www.alchemycommunications.ca](http://www.alchemycommunications.ca)

The scope of work shall include:

- I. Developing a Strategic Communications Plan complete with identification of boundaries, decision criteria, community outreach strategy, media relations strategy, crisis communications strategy (flood specific);
- II. Executing on Multiple Community Engagement Events - dike/berm location, information open houses, etc.;
- III. Executing on notifying communities of the changes through a variety of channels, including direct mail, digital advertising, print advertising, radio advertising and OOH advertising, earned media outreach;
- IV. Respond to resident questions via phone, email, and social media;
- V. Media monitoring daily;
- VI. Social media monitoring daily;
- VII. Regular Reporting to Project Manager, CAO, and City Council;
- VIII. Creating messaging guidance/support for Town Mayor, Council and CAO;
- IX. Liaising and coordination with Town Communications team for consistency, sharing of messaging and website management.

e. Financial

- I. ensure that the financial operations are undertaken pursuant to all applicable statutes and regulations;
- II. prepare and present the draft annual project financial plans and budgets to the Town Chief Financial Officer, Chief Administrative Officer, and Council;
- III. Monitor budgets, processing change work orders, and take action on variances;
- IV. prepare applications and claims for all grants;
- V. maintain financial records and ledger for the project;
- VI. liaise with Town Chief Financial Officer regarding financial transactions for accounts payable, accounts receivable and provide general ledger entries;
- VII. Reviewing, reconciling and preparation of payment vouchers for 3rd party voices, including the Design Consultants, Contractors, and other vendors;
- VIII. ensure the:
  - i. timely payment of accounts and obligations of the project office to avoid the

- payment of interest and penalties;
  - i. timely billing of customers of the project;
  - ii. timely deposit of payments and funds to the Towns bank accounts and invest and manage the funds of the Town to maximize the return to the Town on those funds;
  - iii. reconciliation of the Project Office bank accounts and preparation of ongoing budget and financial reports;
- IX. satisfactory completion of the annual audit and provide such information as may be required for year end financial adjustments and the preparation of the audited financial report;
- X. filing of the financial return information and audited financial statements with funding agencies.

## **5. APPROACH TO DELIVERY OF SERVICES**

**Administrative Center** – The office of the Flood Mitigation is located on the second floor at 702 Premier Way in Drumheller. The intent is that the Proponent will maintain a presence during the project to address resident concerns and coordinate work with Town staff. The Proponent will be provided use of the Flood Office at no charge. The Proponent will be required to provide their own vehicles for the duration of the project.

**Electronic Records** – To the extent available the Town data systems will be utilized. Separate cloud sites have been established to allow for collaboration and version control in a secure site outside of the Town server. The Proponent will manage the consolidation of final records to the Town system from the cloud sites or other vendor sites. A Geographical Information System (GIS) has been developed to manage document control. The Proponent will be required to maintain and integrate the Flood Mitigation GIS into the Town GIS system at completion of the project.

**Physical Records** – The physical files and records are to be located at the Flood Office and integrated into Town records at completion of the project.

**Computer Equipment** – The Proponent will be provided access to the Town system including email. The Proponent will provide laptops that generally allow the work to be completed and will be provided access to certain software and data in the Town system via server access stations. The Town will provide IT services to coordinate setup and integration with Town’s system.

**Contracted Financial Services** – To ensure proper financial control and a proper separation of duties under the program, the Proponent can only initiate and approve financial transactions. The Town will produce: invoices for accounts receivable, cheques for accounts payable, online payments, G.S.T returns and bank reconciliations.

**Council and CAO** – Council meets approximately 20 times annually. Updates will be presented on a monthly basis in a format that also meets the reporting of grant authorities. Monthly meetings of an advisory team and a technical team will be required. A monthly meeting with the CAO and Mayor will occur. Agendas and other information are conveyed by electronic means primarily through direct transmission of documents but also by internet site where information and documents are posted.

# **APPENDIX A**

## **PROPOSAL SUBMISSION FORM**

### **“Flood Mitigation -Project Management” TOD RFQ 2021-21”**

PROPOSALS THAT ARE UNSIGNED, INCOMPLETE, CONDITIONAL, ILLEGIBLE, OBSCURE, CONTAIN ARITHMETCAL ERRORS, ERASURES, ALTERATIONS OR IRREGULARITIES OF ANY KIND, MAY BE CONSIDERED INVALID.

THE LOWEST, OR ANY EVALUATED PROPOSAL, MAY NOT NECESSARILY BE ACCEPTED. THE TOWN OF DRUMHELLER RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS, OR TO ACCEPT THE PROPOSAL EVALUATED TO BE IN THE BEST INTEREST OF THE TOWN OF DRUMHELLER INTENT

THE UNDERSIGNED PROPONENT HEREBY PROVIDES THE ATTACHED PROPOSAL TO PERFORM THE PROJECT/WORK AS DESCRIBED SUBJECT TO ACCEPTANCE AND SUCCESSFUL NEGOTIATION OF A CONTRACT SUITABLE TO THE TOWN OF DRUMHELLER

PROPONENT: \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE:

\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

## APPENDIX B

### NON-DISCLOSURE FORM

#### NON-DISCLOSURE AGREEMENT (NDA)

This Nondisclosure Agreement or ("Agreement") has been entered into on the date of \_\_\_\_\_ and is by and between:

**Party Disclosing Information:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Disclosing Party").

**Party Receiving Information:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Receiving Party").

For the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship concerning the disclosure of certain proprietary and confidential information ("Confidential Information").

**1. Definition of Confidential Information.** For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business in which Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide writing indicating that such oral communication constituted Confidential Information.

**2. Exclusions from Confidential Information.** Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Party's prior written approval.

**3. Obligations of Receiving Party.** Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. Receiving Party shall not, without the prior written approval of Disclosing Party, use for Receiving

Party's benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of Disclosing Party, any Confidential Information. Receiving Party shall return to Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests, it in writing.

4. **Time Periods.** The nondisclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

5. **Relationships.** Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venture or employee of the other party for any purpose.

6. **Severability.** If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to affect the intent of the parties.

7. **Integration.** This Agreement expresses the complete understanding of the parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in writing signed by both parties.

8. **Waiver.** The failure to exercise any right provided in this Agreement shall not be a waiver of prior or subsequent rights.

9. **Notice of Immunity.** Employee is provided notice that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (i) files any document containing the trade secret under seal; and (ii) does not disclose the trade secret, except pursuant to court order.

This Agreement and each party's obligations shall be binding on the representatives, assigns and successors of such party. Each party has signed this Agreement through its authorized representative.

## DISCLOSING PARTY

Signature: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

## RECEIVING PARTY

Signature: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_