



Request for Proposals

QUANTITY SURVEYOR COST CONSULTING SERVICES FOR SASKATCHEWAN JOINT-USE SCHOOLS BUNDLE PROJECT

RFP Reference Number: #SBQS-2014

Release Date: February 6, 2014

Closing Date: February 21, 2014

Closing Time: 11:00 a.m., Local Saskatchewan Time

REQUEST FOR PROPOSALS

Introduction

1. SaskBuilds Corporation ("**SaskBuilds**") seeks a Quantity Surveyor (the "**Consultant**") to provide capital and hard facility operating costs for the planning and procurement of the Saskatchewan Joint-Use Schools Bundle Project (the "**Project**").
2. SaskBuilds, in collaboration with the Saskatchewan Ministry of Education (the "**Ministry**") and applicable School Divisions (see Schedule "A"), is considering a public private partnership ("**P3**") delivery model for the Project, which consists of building nine new joint-use elementary schools in Martensville, Regina, Saskatoon, and Warman. For more information about the Project, please refer to Schedule "A" – Project Information.
3. SaskBuilds invites qualified parties to submit proposals for the provision of the Services. Proponents should have the following general qualifications:
 - a) Extensive and recent (within the last three years) experience in providing Canadian provincial governments or other public sector organizations quantity surveying cost consulting services that are directly relevant to the planning and procurement of major (capital cost not less than \$100 million) public social infrastructure projects, specifically P3 and Design-Build projects.
4. Neither the consultant retained pursuant to this RFP, nor any of the consultant's team members, including sub-consultants, will be eligible to participate as a member of or as a resource to any team responding to a request for qualifications, or submitting a proposal in response to a request for proposals relating to the procurement of the Project, except with the prior written consent of SaskBuilds.

RFP Documents

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

Schedule "A"	Project Information
Schedule "B"	Scope of Services
Schedule "C"	Proposal Content Requirements
Schedule "D"	Evaluation of Proposals
Schedule "E"	Form of Contract

Please be advised that this RFP is comprised of 27 pages, including the cover page.

Notice of Intent to Submit a Proposal

6. If you intend to submit a proposal in response to this RFP, you should provide notice of your intention to SaskBuilds by February 12, 2014, by contacting SaskBuilds (see the contact information in Section 9 below).

Submission of Proposals

7. Proposals should include the content described in the attached Schedule "C" – Proposal Content Requirements.

8. Proposals must be submitted via e-mail to the following email address by 11:00 a.m. (Saskatchewan time) on February 21, 2014:

saskbuilds.projects@gov.sk.ca
 Attention: RFP #SBQS-2014

Inquiries

9. Any inquiries concerning this RFP should be provided in writing prior to 5:00 p.m. (Saskatchewan time) on February 12, 2014:

Subject: RFP #SBQS-2014
 Organization: SaskBuilds
 Email: saskbuilds.projects@gov.sk.ca

10. Proponents should refrain from contacting other agents or officials of SaskBuilds, or any other provincial government or School Division agent or official, in respect of this RFP process, including for the purposes of lobbying or attempting to influence the outcome of this RFP process. Any such contact may, in SaskBuilds' sole discretion, result in disqualification.
11. Answers to inquiries that relate to this RFP process will be posted on www.sasktenders.gov.sk.ca without revealing the source of the inquiry. Proponents should check www.sasktenders.gov.sk.ca for any responses to inquiries or amendments to this RFP prior to submitting their proposals. No additional notification of amendments to this RFP will be provided by SaskBuilds.

Evaluation Process

12. SaskBuilds expects to conduct this RFP in accordance with the following schedule:

Issue RFP:	February 6, 2014
Receive and respond to questions from proponents:	February 12, 2014
RFP closing date:	February 21, 2014
Short-listing of proponents:	February 27, 2014
Interviews for short-listed proponents:	March 5, 2014
Identification of preferred proponent:	March 10, 2014
Work commences:	Week of March 17, 2014

13. SaskBuilds intends to evaluate proposals in accordance with the process and evaluation criteria set out in Schedule "D" – Evaluation of Proposals. However, Proponents are advised that SaskBuilds' intention is to consider, in its sole discretion, each proposal on its merits without regard to the rules or principles of competitive bidding or other legal duties, including without regard to whether a proposal is compliant with this RFP.

14. Following the evaluation process, SaskBuilds expects to enter into an agreement for the Services (the "**Contract**") with a proponent based on the form of contract attached as Schedule "E" – Form of Contract, with such modifications as agreed to by SaskBuilds and the proponent.
15. SaskBuilds intends to notify all unsuccessful proponents, by e-mail, within one week after entering into a definitive contract for the Services. Unsuccessful proponents may request a debriefing interview, to obtain feedback on their proposal, within two weeks after receiving a notification letter.

RFP Terms and Conditions

16. This RFP is not intended to be a tender or otherwise be subject to the laws applicable to competitive bidding. Prior to entering into a Contract, SaskBuilds does not intend to create any other legal duties or obligations, whether in contract, tort or other legal theory, with any proponent.
17. SaskBuilds may negotiate fees, scope of services, and any other terms and conditions of a Contract with any proponent in its sole discretion, whether before, during or after the selection and evaluation process.
18. SaskBuilds is not obligated to accept any proposal or to proceed further with the quantity surveyor cost consultant advisory services, any subsequent quantity surveyor cost consultant services, or with the Project. Consideration of any proposal will be in SaskBuilds' sole discretion.
19. For greater certainty, proponents are advised that SaskBuilds is intending to conduct a flexible procurement process and that SaskBuilds may, in its sole discretion, for any reason:
 - a) reject any and all proposals (including, for greater certainty, the lowest cost proposal);
 - b) modify or vary any aspect of this RFP at any time before or after the time for submission of proposals;
 - c) accept or reject any non-compliant, conditional or irregular proposal or any alternate proposal, in whole or in part;
 - d) discuss the terms of a proposal submitted by a proponent with that proponent at any time for the purposes of clarification and/or negotiation of that proposal;
 - e) allow any proponent submitting a proposal to modify any aspect of its proposal at any time;
 - f) verify or seek clarification of any information provided pursuant to this RFP;
 - g) negotiate any aspect of any proposal (including price and scope of services) with one or more proponents at any time; and/or

- h) cancel this RFP at any time for any reason and thereafter proceed in any manner it sees fit, in its sole discretion, including:
 - i. issuing a new request for proposals or other procurement document based on the same or revised scope of services or other requirements;
 - ii. entering into negotiations with any one or more of the proponents or any other person; or
 - iii. cancelling the procurement in its entirety.
- 20. SaskBuilds will not be responsible for any costs incurred by proponents in preparing their proposals, attending any meetings with SaskBuilds or for making any presentations to SaskBuilds in connection with their proposals.
- 21. Each proponent, by submitting a proposal, agrees that:
 - a) if any or all proposals are rejected for any reason, or any aspect of this RFP is modified, varied, suspended or cancelled for any reason (including modification of the scope of the Services), neither SaskBuilds nor any of its employees, advisors or representatives will be liable, under any circumstances, for any claim demand, liability, damage, loss, suit, action, or cause of action and all costs and expenses relating thereto (a **"Claim"**) or to reimburse or compensate the proponent in any manner whatsoever including, but not limited to, costs of preparation of the proposal, loss of anticipated profits, loss of opportunity, or for any other matter;
 - b) the proponent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the proponent is not selected as preferred proponent or awarded a Contract; and
 - c) with respect to circumstances not listed in the foregoing subsections (a) and (b), the proponent will not make any Claim against SaskBuilds nor any of its employees, advisors or representatives in excess of an amount equivalent to the reasonable costs of preparation of the proposal.

Confidentiality

- 22. Proponents are expected to keep confidential and secure, all documents, data, information and other materials of SaskBuilds or the Government of Saskatchewan, that are provided to or obtained or accessed by a proponent in relation to this RFP and not make any public announcements or news releases regarding this RFP or the entering into of a contract pursuant to this RFP, without the prior written approval of SaskBuilds.
- 23. Proponents should identify any information in their proposals which proponents consider to be confidential or proprietary. Proponents acknowledge that SaskBuilds and all materials in its possession are subject to *The Freedom of Information and Protection of Privacy Act* (Saskatchewan).

SCHEDULE “A”

PROJECT INFORMATION

Project Overview

The Ministry is working with five School Divisions (“SDs”) and Roman Catholic Separate School Divisions (“RCSSD”), as well as external technical advisors, to undertake development of two Standard Core Designs (Core Designs) through a “Lean 3P” Participatory Design process. The Core Designs may then be modified to address individual SD and RCSSD needs. The Ministry is seeking a “Student First” approach to this initiative, focusing on the needs of students to ensure successful educational outcomes.

It is anticipated that each joint-use elementary school will be designed to meet the needs of Prekindergarten to Grade 8 students in both the public and Catholic school divisions. Joint-use schools will consider providing the efficiencies of joint use of major school building components (auditoriums, gyms, offices, etc.).

The Ministry is seeking efficient, innovative and effective methods to deliver these new schools in areas of growth. The schools will be located in the following School Divisions and locations:

LOCATION	DIVISION
City of Martensville	Prairie Spirit SD/St. Paul's RCSSD
City of Regina - Harbour Landing	Regina SD/Regina RCSSD
City of Regina - Northwest Regina	Regina SD/Regina RCSSD
City of Regina - Southeast Regina	Regina SD/Regina RCSSD
City of Saskatoon - Evergreen	Saskatoon SD/St. Paul's RCSSD
City of Saskatoon - Hampton Village	Saskatoon SD/St. Paul's RCSSD
City of Saskatoon - Rosewood	Saskatoon SD/St. Paul's RCSSD
City of Saskatoon - Stonebridge	Saskatoon SD/St. Paul's RCSSD
City of Warman	Prairie Spirit SD/ TBD RCSSD

More information about the Prairie Spirit School Division can be found at <http://www.spiritsd.ca/>.

More information about the Regina Catholic School Division can be found at <http://www.rcsd.ca/>.

More information about the Regina Public School Division can be found at <http://www.rbe.sk.ca/>.

More information about the Saskatoon Catholic School Division can be found at <http://www.scs.sk.ca/>.

More information about the Saskatoon Public School Division can be found at <http://www.spsd.sk.ca/>.

More information about the Saskatchewan Ministry of Education can be found at www.education.gov.sk.ca.

SaskBuilds was established by the Government of Saskatchewan in 2012 to provide advice and recommendations for advancing major infrastructure projects through innovative approaches to infrastructure development and alternative financing models such as public private partnerships.

Additional information about SaskBuilds is available at www.saskbuilds.ca.

SCHEDULE "B"

SCOPE OF SERVICES

The Consultant will, under the terms of the Contract, be required to deliver or perform the following quantity surveyor cost consulting items or services:

A. Undertake Quantity Surveyor and Cost Consulting Services

1. Review and confirm, or adjust, where required, initial estimates for the cost of the facilities based on the core design development and modification process (referenced in Schedule "A").
2. Prepare a total project cost estimate, for each procurement option considered, to support the project decision-making documentation and process. This includes capital cost estimates and hard facility operating costs (e.g., construction, implementation, maintenance, energy and capital replacement) for the life cycle of the proposed new facilities. The estimate will approximate a "Class C" estimate and is expected to be accurate within +/- 15%. It will be based on the core school designs, including modifications made. The Quantity Surveyor will be expected to justify unit rates by comparison to similar recent projects and provide an opinion on cost escalation.
3. Develop a life cycle analysis for the proposed building elements, typically over a 30 year period.
4. Attend the risk workshop and provide inputs and ongoing support for the Project risk analysis.
5. Provide assistance, as required, in the development of the RFP performance specifications and the procurement process for the Project and attend team meetings.
6. Provide input into the assessment of the construction timeline for the Project.
7. Provide an Excel version of both the capital cost estimate and life cycle cost estimate.
8. In performing the Services the Consultant must use the staffing resources and sub-consultants described in the Consultant's proposal submitted in response to the RFP. Any substitutions will require SaskBuilds' prior approval.
9. The consultant should expect to undertake the Services as early as the week of March 17, 2014. SaskBuilds' expectation is that estimates will be provided no later than 14 calendar days once information is provided to the Consultant.

B. Additional Services

SaskBuilds may in its sole discretion and on an as required basis request that the Consultant provide additional services with respect to the Project on terms and conditions agreed to by SaskBuilds and the Consultant. However, SaskBuilds is not committed to purchase any such additional services from the Consultant and SaskBuilds may choose to engage a subsequent procurement process to retain advisors for additional services.

SCHEDULE "C"

PROPOSAL CONTENT REQUIREMENTS

General Qualifications

SaskBuilds expects that, to be eligible for entering into the Contract contemplated by this RFP, proponents will have the general qualifications noted in the Introduction Section of this RFP.

Proposal Contents

Proposals should include the following information in the order indicated below:

1. **Title Page**

This first page should show the RFP title and reference number, closing date and time. Included on this page should be the proponent's contact information as follows:

Firm name:
Address:
Contact name:
Contact phone number:
Contact fax number:
Contact e-mail address:

2. **Table of Contents**

A listing of the proposal contents with reference to the appropriate page number. Page numbering and tabs are beneficial.

3. **Letter of Introduction**

One page of introduction which should be dated and signed by an official authorized to negotiate, make commitments and provide clarifications with respect to the proposal on behalf of the proponent.

4. **Executive Summary**

One or two pages summarizing the key features of the proposal.

5. **Firm Profile and Experience**

Provide an introduction of the proponent and a description of the proponent's experience including:

- a) length of time in business;
- b) location of head office and any sub-offices; and

- a) P3 and Design-Build knowledge and experience, including concrete examples of recent, similar experience in providing Canadian provincial governments or other public sector organizations quantity surveying cost consulting services in the planning and procurement of P3 social infrastructure projects, that have been successfully completed. This knowledge and experience would have been obtained in the past three years.

Please Note: To validate their experience, proponents may be required to provide, upon request, three references (including contact name and telephone number).

6. Experience and Capacity of Your Team

Provide a listing of personnel that would be assigned to develop and complete the Services as outlined in Schedule "B" – Scope of Services of this RFP. For each proposed staffing resource, provide the following information:

- a) Name;
- b) Location of the resource throughout the provision of the Services;
- c) Role (including related tasks) of the resource in the work – align role with each of the key deliverables outlined in Schedule "B" – Scope of Services and the proponent's work plan (described below at point #8);
- d) A brief summary highlighting relevant assignment(s) and responsibilities over the past five years, including start and end dates for each assignment, detailing the resource's qualifications for providing the required services;
- e) A resume for each staffing resource providing an indication of the knowledge, education, qualifications and/or skill sets the resource possesses to deliver the required services; and
- f) The estimated number of person days that each staffing resource will spend in providing services.

Proponents should also provide a proposed succession plan to ensure an uninterrupted level of service throughout the development and completion of the required services.

To validate the experience of the proposed resources, proponents may be required to provide, upon request, three references (including contact name and telephone number) for each proposed resource.

7. Proposed Approach

Provide a detailed description of the proponent's proposed approach to provide the Services as stated in Schedule B – Scope of Services of this RFP.

The description should include:

- a) the overall strategy for providing quantity surveying and cost consulting services for the development of the business case and the planning stage of the Project and the merits of the proposed approach;
- b) the proponent's understanding of the requirements of the services SaskBuilds is seeking; and
- c) innovative, value-added approaches including additional information and documentation that can provide improvements to the preparatory procurement process.

8. Work Plan

Provide a high-level work plan that includes the following in respect of the development and completion of the procurement preparation and project evaluation:

- a) the estimated start and end dates for each key task or phase;
- b) an indication of the deliverables and milestone dates associated with each task or phase; and
- c) an indication of the resource allocation for each task or phase, including how much time each resource will spend on each task or phase.

The work plan should demonstrate the proponent's ability to develop and complete the required Services as described in Schedule "B" – Scope of Services of this RFP.

9. Fee Proposal

Provide a detailed fee proposal that includes:

- a) estimated budgets and personnel hours for the preparation and Project evaluation, as described in Schedule "B" – Scope of Services of the RFP and broken down in accordance with the proponent's work plan (described above in section 8); and
- b) an estimate and summary of the reimbursable expenses the proponent expects to incur in the performance of the Services. Note that travel expenses will be subject to prior approval by SaskBuilds and must be in accordance with Government of Saskatchewan policy.

SaskBuilds has a preference for as much cost certainty as possible. Proponents may include for SaskBuilds' consideration a fixed fee proposal for all or any part of the Services.

In preparing the fee proposal Proponents should:

- a) quote all prices in Canadian funds;
- b) clearly identify all key assumptions used in calculating estimated costs;
- c) show all sub-consultant costs separately; and
- d) show all taxes separately (please note that SaskBuilds is a GST exempt entity).

10. Sub-consultants

For each sub-consultant that is proposed for any portion of the Services, include the following information:

- a) Name;
- b) Relationship to proponent;
- c) Location throughout the provision of the Services;
- d) Role (including related tasks) in performing the Services;
- e) Estimated amount of person days to be spent providing Services; and
- f) A detailed resume that includes the following information:
 - i. Related qualifications (education and training with completion dates); and
 - ii. A summary of recent assignment(s) and responsibilities, and related knowledge/experience.

Please note: To verify the experience of the sub-consultant, proponents may be required to provide, upon request, three references (including current contact name and telephone number).

11. Form of Contract

Identify any exceptions or additions to the proposed form of Contract in Schedule "E". SaskBuilds will assume, in the absence of any such exceptions or additions, that the proponent accepts the form of Contract as presented.

12. Conflicts of Interest

Identify any current or past (previous three years) relationships of the proponent and its employees, representatives and sub-contractors with SaskBuilds, the School Divisions (as noted in Schedule "A") or the Ministry.

SCHEDULE "D"

EVALUATION OF PROPOSALS

SaskBuilds intends to evaluate proposals in accordance with the following evaluation process and based upon the criteria set out in this Schedule "D".

1. SaskBuilds' intention is to select the proponent that offers the best overall value to SaskBuilds, as determined by SaskBuilds in its sole discretion, taking into consideration the evaluation criteria set out in this Schedule.
2. SaskBuilds expects to establish an evaluation team, as it considers appropriate, to conduct its evaluation process. The evaluation team may consist of representatives and consultants of SaskBuilds, and other Government of Saskatchewan representatives.
3. In evaluating proposals, SaskBuilds expects to consider the following factors (in no particular order of importance or weighting):
 - a) the experience and capacity of the proponent and its proposed resources;
 - b) the extent to which a proponent addresses the Proposal Content Requirements set out in Schedule "C";
 - c) the ability and capacity of a proponent to meet the requirements of this RFP and the needs of SaskBuilds generally;
 - d) the proponent's proposed approach, work plan and methodologies;
 - e) the proponent's overall fee proposal;
 - f) the proponent's exceptions or additions to the Contract terms;
 - g) reference checks that may be conducted at SaskBuilds' sole discretion; and
 - h) such other criteria as SaskBuilds considers relevant.
4. If SaskBuilds chooses to assign weightings to the evaluation criteria, such weightings will be determined in SaskBuilds' sole discretion and need not be disclosed to proponents.
5. As part of the evaluation process, SaskBuilds expects to rank the proposals from the most desirable to the least desirable and to use this ranking to create a short list of up to three preferred proponents to present their proposals, in-person or via teleconference, to SaskBuilds' evaluation team. In creating this short list of proponents SaskBuilds expects to begin with a review of the proposals, and may also seek clarifications from proponents and conduct reference checks as needed.
6. SaskBuilds expects to allow up to 45 minutes for each interview in which short-listed proponents are expected to:
 - a) include in the interview the key members of their proposed team, including sub-consultants;

- b) demonstrate their understanding of the services required by SaskBuilds;
 - c) suggest methods for dealing with potential challenges;
 - d) demonstrate their ability to perform the services; and
 - e) further clarify any aspects of their proposals, as requested by SaskBuilds' evaluation team.
7. Following the interviews SaskBuilds expects to identify as the preferred proponent the proponent that provides the best overall value to SaskBuilds as determined by SaskBuilds. In making this determination SaskBuilds may conduct reference checks, seek clarifications from any proponent, and negotiate any aspect of the Contract, including scope, price and contract terms, with any proponent. An invitation to negotiate does not obligate SaskBuilds to conclude a contract with that proponent. The preferred proponent may or may not have the lowest price proposal.

SCHEDULE "E"
FORM OF CONTRACT
CONSULTING SERVICES CONTRACT

THIS CONTRACT is effective as of **[Insert Date]**.

BETWEEN:

SASKBUILDS CORPORATION, a Treasury Board Crown Corporation pursuant to *The Crown Corporations Act, 1993* (Saskatchewan) ("**SaskBuilds**")

AND:

[Insert Name of Consultant], a body corporate having an office in the city of **◆**, in the Province of **◆** (the "**Consultant**")

RECITALS:

1. SaskBuilds issued a request for proposals for the provision of quantity surveyor cost consulting services for the Saskatchewan Joint-Use School Bundle Project (the "RFP").
2. The Consultant submitted a proposal in response to the RFP.
3. SaskBuilds has agreed to retain the Consultant for the provision of, and the Consultant has agreed to provide SaskBuilds with, the Services on the terms and conditions set forth in this Agreement.

ACCORDINGLY, SaskBuilds and the Consultant agree as follows:

1. Contract

The following schedules are incorporated into and form part of this Contract:

- (a) Schedule 1 – Scope of Services
- (b) Schedule 2 – General Conditions
- (c) Schedule 3 – Contract Price, Payment and Schedule

All capitalized terms used in this Contract and not otherwise defined shall have the meanings given to such terms in Schedule 2 – General Conditions.

2. Scope of Services

The Consultant shall perform the Services required by, and comply with the requirements of, this Contract.

3. Time for Performance

The Consultant shall perform the Services diligently and in accordance with any milestones identified in Schedule 3 – Contract Price, Payment and Schedule or elsewhere in this Contract.

4. Contract Price and Payment

Subject to this Contract, for the due and proper performance of the Services, including the discharge by the Consultant of all of its obligations in this Contract, SaskBuilds shall pay to the Consultant the Contract Price in accordance with Schedule 3 – Contract Price, Payment and Schedule.

5. Notices

- 5.1 Any notice required or contemplated by this Contract must be in writing and given to an officer of the receiving party either personally (including by courier) or by email, at the address for each party set out below or at any other address or fax number or to the attention of any other officer of which a party notifies the other party in accordance with this subsection 5.1.

SaskBuilds:

SaskBuilds Corporation
720, 1855 Victoria Avenue
Regina SK S4P 3T2
Attention: <name or title>
<insert email address>

Consultant:

<insert full legal name of Consultant>
<insert address>
Attention: <name or title>
<insert email address>

- 5.2 All notices will be considered given when: (a) in the case of personal delivery or delivery by courier, when delivered; (b) in the case of mail, three days after they are postmarked; and (c) in the case of email, on receipt by the sender indicating that the transmission has been made without error.

The parties have signed this Contract with the intention of making it legally binding as of the Effective Date.

SASKBUILDS CORPORATION**[Name of Consultant]**

By: _____
Title:

By: _____
Title:

SCHEDULE 1 – SCOPE OF SERVICES

The Services to be provided by the Consultant consist of the following:

[To be completed based on the Scope of Services included at Schedule B of the RFP and appropriate portions, as determined by SaskBuilds, of the proposal of the chosen proponent.]

SCHEDULE 2 - GENERAL CONDITIONS

1. Definitions

In this Contract:

"Confidential Information" means the terms and conditions of this Contract and all knowledge and information concerning the operations of SaskBuilds and SaskBuilds' Affiliates, or third party proprietary information in the custody and control of SaskBuilds and SaskBuilds' Affiliates, which may be directly or indirectly acquired by the Consultant in the course of negotiation or performance of this Contract, in whatever form and whether or not marked as confidential;

"Contract" means the Consulting Services Contract executed by SaskBuilds and the Consultant together with all of the schedules attached thereto, all documents incorporated by reference into those schedules and all amendments to any of the foregoing, from time to time duly executed by the parties;

"Contract Price" means: (a) where the Services are performed on a "fixed fee" basis, the aggregate or total contract price specified for the performance of the Services in Schedule 3 – Contract Price, Payment and Schedule; or (b) where the Services are performed on an "hourly rate" basis, the aggregate or total contract price earned for performance of the Services, determined in accordance with Schedule 3 – Contract Price, Payment and Schedule;

"Deliverables" means any work product, report, study, file, written advice or other document, data or deliverable, whether in written or electronic form, prepared by or on behalf of the Consultant with respect to the Services;

"Effective Date" means the date first written on this Consulting Services Contract;

"General Conditions" means the terms and conditions set forth in this Schedule;

"GST" means the goods and services tax as provided for the *Excise Tax Act* (Canada), or any successor or replacement Laws;

"Intellectual Property Right" means any patent, patent pending, trademark, copyright, industrial design protection or any other intellectual property right, whether registered or unregistered, and includes any agreement, covenant or obligation relating to or governing the use or transfer of any such right;

"Laws" means any applicable federal, provincial, or local law, regulation, bylaw, ordinance, rule, permit, license or code of every relevant jurisdiction that in any manner affects the Services or the performance of the Consultant's obligations under this Contract and any order, decree, authorization or approval, or other binding determination of any relevant governmental authority, body, tribunal or agency with jurisdiction over the foregoing;

"PST" means the provincial sales tax as provided for in *The Provincial Sales Tax Act* (Saskatchewan), or any successor or replacement Laws;

"SaskBuilds' Affiliates" includes Her Majesty the Queen in Right of the Province of Saskatchewan, which includes all ministries;

"Services" means the performance of all services set out in Schedule 1 – Scope of Services or otherwise required pursuant to this Contract; and

“**Sub-consultant**” means any sub-consultant engaged by the Consultant in connection with the provision of the Services.

2. Law of the Contract

The Laws of the Province of Saskatchewan and the Laws of Canada applicable in Saskatchewan govern the interpretation, validity and enforceability of this Contract. The Consultant agrees to submit to the jurisdiction of the courts of the Province of Saskatchewan.

3. Entire Agreement

3.1 This Contract constitutes the entire and only agreement between the parties, and supersedes and cancels all pre-existing agreements and understandings between the parties relating to the subject matter of this Contract.

4. Service Requirements

4.1 The Consultant shall:

- (a) have control over the proper performance of the Services and all persons involved in the Services, including approved sub-consultants, if any, and shall be responsible for the compliance with this Contract by all such persons;
- (b) properly perform and complete the Services with diligence, skill and care to completion within the time set forth in this Contract; and
- (c) ensure that the Services are performed under the supervision of appropriately qualified and experienced personnel and ensure that all persons engaged in performing the Services will be appropriately qualified and experienced for the tasks assigned to them.

4.2 The Consultant agrees that it will not use any employee or agent or third party to provide the Services who has a criminal record, except with the prior written approval of SaskBuilds. If the Consultant becomes aware that an employee, agent or third party providing the Services obtains a criminal conviction at any point during the term of this Contract, the Consultant shall, within 5 days of becoming aware, notify SaskBuilds that its employee, agent or third party has a criminal record, as well as the particulars of the criminal conviction. SaskBuilds may, at its sole discretion, require the Consultant to replace such employee, agent, or third party with another employee, agent or third party suitable to SaskBuilds.

4.3 The Consultant acknowledges and agrees that all Services must be performed by the Consultant in accordance with the requirements of this Contract and currently accepted prudent industry standards and practices for services of a similar nature having regard to the requirements of this Contract.

4.4 SaskBuilds may provide the Consultant with additional instructions as necessary for the performance of the Services. All such additional instructions must be consistent with the general scope and intent of this Contract and the Services must be performed in conformity with such additional instructions. In giving such additional instructions, SaskBuilds may make minor changes in the Services, not inconsistent with the general scope and intent of this Contract.

5. Additional Services

If SaskBuilds requires changes to the Services, the Contract Price shall be adjusted in such manner as SaskBuilds and the Consultant mutually agree. Any such adjustment to the Contract Price must be agreed to in writing by SaskBuilds and the Consultant before any such additional services are undertaken by the Consultant. Nothing in this Contract commits SaskBuilds to purchase any additional services.

6. Compliance with Laws

The Consultant shall: (a) comply with all applicable Laws in performing its obligations under this Contract; and (b) provide SaskBuilds with evidence of compliance with Laws when SaskBuilds reasonably requests.

7. Sub-consultants

The Consultant shall not employ any sub-consultant to perform any Services, without SaskBuilds' prior written consent. No subcontract by the Consultant, nor the granting of any approval or consent to subcontract by SaskBuilds, relieves the Consultant of any of its liabilities or obligations under this Contract. The Consultant shall pay all proper invoices, claims and accounts of sub-consultants employed in connection with the Services.

8. Payment of Invoices

8.1 Each Consultant invoice must: (a) be only for the value of the Services performed as of the invoice date; (b) include separate subtotals for applicable PST; (c) list the Services to which it relates; and (d) include original receipts for reimbursable expenses.

8.2 Payment of all undisputed amounts of each invoice are due within 30 days after receipt of such invoice by SaskBuilds, provided the Consultant is otherwise in compliance with this Contract. SaskBuilds does not pay interest on overdue accounts until such accounts are 45 days past due, and interest shall be at the rates prescribed by the Government of Saskatchewan.

8.3 If the amount of any invoice is disputed by SaskBuilds, SaskBuilds shall give prompt notice of the disputed amount with reasons and will not delay payment of the remainder of the invoice.

9. Full Compensation

Except as otherwise expressly stated in this Contract, the Consultant accepts the Contract Price as full compensation for everything furnished and done by the Consultant under this Contract and fulfillment of all the Consultant's obligations under this Contract.

10. Price Inclusive

Subject to section 11 (Taxes), the Contract Price includes all taxes, contributions, assessments, licensing fees, insurance charges and any other charges whatsoever in connection with the Services.

11. Taxes

11.1 The Contract Price is exclusive of any applicable PST required to be levied on the Contract Price. SaskBuilds is a GST exempt entity and therefore, it is the Consultant's responsibility to ensure that SaskBuilds is not charged GST or any harmonized sales tax.

11.2 If the Consultant is not a licensed Saskatchewan PST vendor, SaskBuilds shall self-assess and remit all applicable PST. If the Consultant is a licensed Saskatchewan PST vendor, the Consultant shall promptly pay or remit to the appropriate governmental authority when due all applicable PST. The Consultant shall indemnify and save harmless SaskBuilds from and against all such PST or any assessments or other charges in relation to the Services or this Contract that may be payable to any federal, provincial, local or other taxing authority having jurisdiction.

12. Records

If any of the Contract Price is not payable as a fixed fee, the Consultant shall maintain, by generally accepted accounting methods, time sheets and records of reimbursable expenses. The Consultant shall make its books and records pertaining to the Services performed on an hourly rate basis and reimbursable expenses available for SaskBuilds' audit and inspection upon request for a period of two years following completion of the Services or termination of this Contract.

13. Remedial Services

The Consultant shall, at the Consultant's expense, re-perform any Services necessary to correct any errors, omissions, defects or deficiencies in the Services, including the Deliverables.

14. SaskBuilds' Right to Terminate

SaskBuilds may terminate this Contract by providing written notice to the Consultant, if the Consultant fails to comply with this Contract.

15. Cancellation by SaskBuilds

SaskBuilds may cancel this Contract, without cause, by providing written notice to the Consultant. Upon such cancellation, SaskBuilds shall pay the Consultant for the completed Services performed, together with all actual direct expenses, charges and liabilities reasonably incurred by the Consultant as a result of such cancellation. SaskBuilds shall have no further liability to the Consultant in relation to such cancellation.

16. Rights on Termination or Cancellation

Upon termination of this Contract pursuant to section 14 (SaskBuilds' Right to Terminate) or cancellation of this Contract pursuant to section 15 (Cancellation by SaskBuilds), the Consultant shall promptly deliver to SaskBuilds all Deliverables as they exist on the date of termination or cancellation (as the case may be) or in such other form as SaskBuilds may reasonably require.

17. Insurance Coverage

17.1 The Consultant shall maintain in force during the term of this Contract, the following insurance policies with insurers licensed to do business in Saskatchewan:

- (a) comprehensive general liability insurance covering bodily injury, including death, property damage and non-owned automobile liability in an amount of not less than \$2,000,000 per occurrence;
- (b) professional liability (errors & omissions) insurance with a limit of not less than \$5,000,000 per occurrence; and

- (c) automobile liability insurance covering all owned or leased automobiles used by the Consultant, his respective servants, agents or employees under this Agreement, with limits of not less than \$2,000,000 per occurrence.

The terms of such insurance must be satisfactory to SaskBuilds, acting reasonably, and the Consultant will provide SaskBuilds with satisfactory proof of such insurance coverage upon request.

- 17.2 The Consultant shall ensure that "SaskBuilds Corporation" and "Her Majesty the Queen in Right of the Province of Saskatchewan" are added as additional insureds to the insurance policy referred to in section 17.1(a).
- 17.3 The Consultant shall ensure that all sub-consultants contracted by the Consultant carry insurance in the form and limits as required to be carried by the Consultant.

18. Consultant Indemnification

- 18.1 In this section 18 (Consultant Indemnification): "SaskBuilds" includes SaskBuilds, SaskBuilds' Affiliates, and their respective agents, officers, directors, ministers and employees, or any of them; and "Claim" means any claim, demand, action, cause of action, suit or proceeding.
- 18.2 The Consultant shall indemnify and hold harmless SaskBuilds from and against all liability, damage, losses, expenses or costs of any kind or nature including third party Claims (including, without limitation, legal fees on a solicitor and own client basis), based upon, arising out of, resulting from or attributable to: (a) the acts or omissions, including, without limitation, negligence, gross negligence, strict liability, or willful, wanton or intentional misconduct of the Consultant, any sub-consultant or anyone for whose acts or omissions any of them may be liable in performing the Services; or (b) a breach of this Contract by the Consultant.

19. Intellectual Property

- 19.1 The Consultant hereby grants to SaskBuilds and to SaskBuilds' Affiliates the right to use the Deliverables for any and all purposes expressly or impliedly contemplated in this Contract. The Consultant agrees that SaskBuilds' right to use the Deliverables includes the right to sublicense the Deliverables. The Consultant shall ensure that neither the Deliverables nor the use of such Deliverables by SaskBuilds or SaskBuilds' Affiliates in accordance with this Contract constitutes or results in an infringement or violation of any Intellectual Property Right or any Laws. Any royalty, license fee or other charge payable to a third party in connection with the use of the Deliverables must be for the account of the Consultant, and the Consultant shall promptly pay such royalties, license fees and other charges and obtain any necessary licence authorizing such use. If SaskBuilds or any SaskBuilds' Affiliate is required to pay any such royalty, licence fee or other charge, the Consultant shall promptly reimburse SaskBuilds.
- 19.2 The Deliverables are works for hire and are SaskBuilds' sole property. The Consultant shall ensure that all Consultant personnel involved in the creation of the Deliverables waives any moral rights they have or may have relating to the Deliverables in favour of SaskBuilds and SaskBuilds' Affiliates. The Consultant may retain, in a secure location, one copy of all Deliverables solely for its records and may not make any commercial use of same without the prior written consent of SaskBuilds.

- 19.3 Ownership of any Intellectual Property Right resulting from, made, or conceived of, by the Consultant (or any sub-consultant) for the first time in connection with providing the Services, as soon as it results or is conceived or made, will automatically vest in SaskBuilds. On SaskBuilds' request, the Consultant shall execute any formal assignment or other document required to give effect to this subsection 19.3. Each party shall retain ownership of all Intellectual Property Rights that it owned, acquired or developed prior to the Effective Date or acquired or developed subsequent to the Effective Date but outside the scope of this Contract.
- 19.4 The Consultant shall indemnify and save harmless SaskBuilds, SaskBuilds' Affiliates and their respective agents, officers, directors, ministers and employees from and against all claims, demands, actions, costs (including legal fees on an solicitor and own client basis and experts' fees), expenses, judgments, losses, damages, charges, suits or proceedings in any manner based upon, arising out of, resulting from or attributable to a claim or assertion by any person that the Deliverables or any portion of the Deliverables or the use thereof by SaskBuilds or SaskBuilds' Affiliates infringes or violates any Intellectual Property Right or Laws. In the event that the Deliverables, or any portion or use thereof, are held to constitute an infringement and the use thereof is enjoined, the Consultant shall, at its expense, either:
- (a) procure for SaskBuilds and SaskBuilds' Affiliates the right to continue using the Deliverables;
 - (b) replace the Deliverables with a non-infringing equivalent alternative satisfactory to SaskBuilds in its sole and unfettered discretion; or
 - (c) modify the Deliverables to SaskBuilds' satisfaction so that they become non-infringing.

20. Confidentiality

- 20.1 The Consultant shall keep all Confidential Information of SaskBuilds and SaskBuilds' Affiliates strictly confidential and shall only disclose Confidential Information as is required or permitted elsewhere in this Contract.
- 20.2 Except as set out elsewhere in this section 20 (Confidentiality), without the prior written consent of SaskBuilds, the Consultant shall: (a) not divulge to any third party any Confidential Information; (b) not make any commercial use whatsoever of any Confidential Information outside of this Contract; and (c) only use Confidential Information solely for the Consultant's performance of this Contract. While Confidential Information is located at SaskBuilds' premises the Consultant shall safeguard the Confidential Information in accordance with SaskBuilds' information security policies and practices applicable to the premises. Confidential Information shall only be removed from SaskBuilds' premises if and to the extent necessary to perform the Services and only with the prior knowledge of SaskBuilds. The Consultant shall safeguard Confidential Information that is removed from SaskBuilds' offices in the same manner and to the same extent that it safeguards confidential documents, data and information of its own, or in such manner and to such extent as SaskBuilds may otherwise require. The Consultant will not, without the prior written consent of SaskBuilds, process, store or transmit personal information which may be present in the Confidential Information in or to a country other than Canada.

- 20.3 The obligations of the Consultant under this section 20 (Confidentiality) will survive the termination of this Contract until such time as SaskBuilds agrees to release the Consultant from such obligations, but do not apply to Confidential Information that the Consultant demonstrates was:
- (a) at the time of its receipt by the Consultant or thereafter (but prior to its disclosure to a third party), public information or information known generally in the trade due to a reason other than the failure of the Consultant to comply with this section 20 (Confidentiality);
 - (b) in its lawful possession and not supplied directly or indirectly by SaskBuilds or SaskBuilds' Affiliates, prior to the Consultant's initial receipt hereunder;
 - (c) acquired lawfully by the Consultant from a third party not under any obligation of confidentiality to SaskBuilds; or
 - (d) required by any applicable Laws to be disclosed, provided that: (i) prior to such disclosure, the Consultant gives notice to SaskBuilds with the full particulars of the proposed disclosure; (ii) the Consultant only discloses such Confidential Information as it is advised by legal counsel is legally required to be disclosed; and (iii) the Consultant takes reasonable steps to obtain assurances that confidential treatment will be afforded to the Confidential Information disclosed.
- 20.4 Only the employees, servants, agents, consultants or contractors of the Consultant who have a need to receive Confidential Information for the performance of the Consultant's obligations under this Contract may have access to Confidential Information, and the Consultant shall cause each such employee, servant, agent, consultant or contractor to hold Confidential Information under the same or substantially similar obligations of confidentiality imposed by this section 20 (Confidentiality). For greater certainty, the Consultant shall be responsible to SaskBuilds for any disclosure or use of Confidential Information contrary to this Contract by anyone to whom the Consultant discloses Confidential Information.
- 20.5 The Consultant agrees to permit SaskBuilds to have access to the Consultant's premises, records and employees at any reasonable time to perform reviews and audits that SaskBuilds considers advisable to ensure that the Consultant is meeting the requirements of this section. The Consultant further agrees to provide its full co-operation for the purposes of such reviews and audits.
- 20.6 The Consultant shall not make any public announcements or issue any press releases regarding this Contract without the prior written consent of SaskBuilds.
- 20.7 Without limiting the generality of this section 20 (Confidentiality), the Consultant consents to the release of the Consultant's name and the annual amount paid to it by SaskBuilds pursuant to this Contract and the Consultant acknowledges and accepts that SaskBuilds and Saskbuilds' Affiliates are subject to freedom of information laws.
- 20.8 The Consultant will immediately report to SaskBuilds if:
- (a) the Consultant or an affiliated company of the Consultant is served with an order, demand, warrant or any other document purporting to compel the production of any of the Confidential Information, including an order made pursuant to the Uniting and

Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT); or

- (b) the Consultant knows of or suspects that there has been a breach of a provision of this section or the confidentiality of the Confidential Information has been compromised.

20.9 The Consultant shall return to SaskBuilds or destroy, at the sole option and discretion of SaskBuilds, all Confidential Information, and in the case of destruction the Consultant shall confirm in writing to SaskBuilds that such Confidential Information has been destroyed.

21. Conflict of Interest

The Consultant warrants that the performance of the Consultant's obligations under this Contract will not create or result in any conflict of interest as to any relationship (contractual, fiduciary or otherwise) which the Consultant may have with any third party. The Consultant shall notify SaskBuilds of any actual or potential conflict of interest, and shall not create nor permit to exist any such conflict of interest during the performance of the Services. Notwithstanding the generality of the foregoing the Consultant shall:

- (a) not submit a response or proposal for, or act as a sub-consultant for a proponent that submits a response or proposal for any request for proposals relating to the Saskatchewan Joint-Use School Bundle project issued by SaskBuilds or a SaskBuilds' Affiliate, or otherwise participate, or have any financial interest, in any contract relating to the subject matter of this Contract or the RFP or relating to the Saskatchewan Joint-Use School Bundle, except with the prior written consent of SaskBuilds;
- (b) not accept commissions, allowances or other compensation either directly or indirectly from any third party in connection with the Services;
- (c) provide independent and impartial advice to SaskBuilds with respect to the Services; and
- (d) cause any sub-consultant to comply with the provisions of this section 21 (Conflict of Interest).

22. Rights and Remedies

Unless otherwise expressly provided in this Contract, each party's rights and remedies specified in this Contract are cumulative and are not exclusive of any other rights or remedies that a party may have, whether under this Contract, at law, in equity or otherwise.

23. Independent Status of the Consultant

23.1 The Consultant is an independent contractor and not an agent, employee, partner or representative of SaskBuilds or any SaskBuilds' Affiliate. Nothing contained in this Contract creates any contractual relationship between SaskBuilds, or any SaskBuilds' Affiliate, and any sub-consultant nor an employment relationship between SaskBuilds, or any SaskBuilds' Affiliate, and any employee of the Consultant or any sub-consultant.

23.2 The Consultant has no authority to make any statement, representation or commitment of any kind, or to take any action, that is binding upon SaskBuilds or any SaskBuilds' Affiliate.

23.3 If the Consultant or any director, officer, employee or agent of the Consultant or any sub-consultant is deemed or determined to be an employee of SaskBuilds or any SaskBuilds' Affiliate, then the Consultant shall indemnify SaskBuilds and SaskBuilds' Affiliates against, and hold SaskBuilds and SaskBuilds' Affiliates harmless from, all liability, costs and expenses for which SaskBuilds or any SaskBuilds' Affiliate becomes responsible as a result, including, without limitation, any penalties or interest imposed by any authority pursuant to any Laws.

24. Modification

No revision, modification or waiver of this Contract is binding on SaskBuilds unless expressly agreed to in writing signed by an authorized representative of SaskBuilds.

25. No Assignment

This Contract may not be transferred or assigned in whole or in part by the Consultant without the prior written consent of SaskBuilds. Such consent will not relieve the Consultant of its obligations and liabilities under this Contract.

26. Survival of Covenants, Representations and Warranties

All provisions of this Contract which expressly or by their nature survive the termination of this Contract or the completion of the Services will continue in full force and effect after any termination of this Contract or completion of the Services.

27. Enurement

This Contract enures to the benefit of and is binding upon the parties and their respective successors and assigns (in the case of the Consultant, permitted assigns).

SCHEDULE 3 – CONTRACT PRICE, PAYMENT AND SCHEDULE

[To be completed.]