



INSTRUCTIONS TO BIDDERS
December 28, 2018

TENDER FOR HUMIDIFIER REPLACEMENT WORK
LIBRARY/ ART MUSEUM

CITY OF MOOSE JAW
SASKATCHEWAN

CLOSING DATE:
February 7, 2019 at 2:00 p.m. (Central Standard Time)

INTRODUCTION

1. The City of Moose Jaw (the "Owner") seeks Bids from general contractors to perform work to complete the Humidifier Replacement at the Library/Art Museum in the City of Moose Jaw, Saskatchewan on a **"stipulated price"** basis in accordance with the Bid Documents listed below. Details regarding this project can be found in the Bid Documents.

2. The Consultant for this project is:

Guy Sanders, McGinn Engineering Limited (the "Consultant")

1457 Albert Street, Regina, SK S4R 2R8

306.565.0411

SUBMISSION DEADLINE

3. Submit 1 original and 2 copies of Bids in hard copy to the following address **before 2:00 p.m. (Central Standard Time), February 7, 2019.**

Anjana Alex, Design and Development Technician
Parks and Recreation Department
Phone: 306-690-2848
E-mail: aalex@moosejaw.ca

City of Moose Jaw
228 Main Street N,
Moose Jaw, SK, S6H 3J8

4. Moose Jaw's Parks & Recreation office hours for the purpose of receiving Bids are 8:15 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m. (Central Standard Time), Monday to Friday, excluding statutory holidays.
5. Any Bids received after the Bid submission deadline will be returned to the Bidder unopened.

CONTRACT/BID DOCUMENTS

6. Bid Documents may be obtained by visiting the City of Moose Jaw's website at <https://moosejaw.ca/tenders>
7. The Contract Documents consist of the following:
 - (a) Contract, including:
 - (i) Agreement between the Owner and Contractor: This will be completed after the awarding of the contract.
 - (ii) General Conditions

- (b) Supplementary Conditions: This will be completed after the awarding of the contract.
 - (c) Supplementary Safety Conditions: This will be completed after the awarding of the contract
 - (d) Schedule A – Specification of Equipment’s and Detailed Drawings.
8. The Bid Documents consist of the following:
- (a) Instructions to Bidders
 - (b) Bid Form including the following Appendices:
 - (i) Appendix A – Contract Document Review
 - (ii) Appendix B – Stipulated Price / Unit Prices
 - (iii) Appendix C – Force Account Rates
 - (iv) Appendix D – Alternative Prices
 - (v) Appendix E – Schedule
 - (vi) Appendix F – Project Manager and Site Superintendent
 - (vii) Appendix G – Subcontractors
 - (viii) Appendix H – Conflict of Interest Disclosure
 - (ix) Appendix I – Contractor Qualification Statement CCDC 11
9. Upon receipt of Bid Documents and Contract Documents, Bidders should verify that documents are complete and that no documents, sections, forms or pages are missing.
10. The Owner expects that Bidders will review the Contract Documents in respect of the Work and will immediately notify the Consultant in writing of any error, omission, inconsistency or discrepancy in the Contract Documents which would impact the Contract Price or Contract Time.
11. The Bid Documents are provided to Bidders for the sole purpose of obtaining Bids for this project and do not confer any license or grant permission for any other use.

SITE MEETING

12. The Owner will hold two site walk-throughs, one on January 14, 2019 at 10:00 a.m **(Central Standard Time)** and the other one on January 21, 2019 at 10:00 am. Bidders can attend any one of these walk-throughs. Location: Library/Art Museum, Moose Jaw, Saskatchewan. Minutes from the meeting may, at the Owner's discretion, be posted on www.sasktenders.ca. The address of the Library/Art Museum is: **461 Langdon Cres, Moose Jaw, SK S6H 0X6.**

13. For the site meeting, only prime contractors will be required to attend. Sub-contractors **do not have to attend**, but they are welcome to attend. Also, there will not be any other walk throughs. Only Bidders who attend the site meeting and sign the sign in sheet will be considered during the awarding process.

QUERIES/ADDENDA/SUBSTITUTIONS

14. Bidders may submit questions regarding the interpretation of the Contract/Bid Documents in writing to Attention: **Chris Heisler**, e-mail: **cheisler@moosejaw.ca**. Questions regarding the Contract/Bid Documents should be submitted not less than 5 working days before the Bid submission deadline. Replies may be in the form of addenda, a copy of which would be posted on www.sasktenders.ca.
15. The Bidder should refrain from contacting other employees, consultants or members of Council or the Owner in respect of this procurement process, including for the purposes of lobbying or attempting to influence the outcome of this procurement process. Any such contact may, in the Owner's sole discretion, result in disqualification of the Bidder.
16. Where the Drawings or Specifications stipulate a product, material, equipment or construction method, requests for substitutions will be considered by the Owner up to 5 days before the Bid submission deadline.
17. Requests for substitutions should be submitted to the Owner in writing. Bidders are responsible for ensuring that requests for substitutions contain enough information for the Owner to determine quality and performance equivalency and otherwise determine the acceptability of the requested substitution. Requests for substitutions should identify any and all changes required in the applicable work, and all changes to any other works, which would become necessary to accommodate the requested substitution.
18. If the Consultant is satisfied that the requested substitution will achieve similar results to the specified product, material, equipment or construction method, the Owner may, at its option, issue a written addendum approving the substitution as an equal. All Bidders may then use that product, material, equipment, or construction method in place of the specified product, material, equipment, or construction method, and may prepare their Bids accordingly.
19. If the Consultant does not approve a particular requested substitution, Bidders should base their Bid price upon the product, material, equipment, or construction method specified in the Drawings or Specifications.
20. The Owner may make changes to the Contract Documents or the Bid Documents prior to the Bid submission deadline. Any changes will be in the form of written addenda which will be posted on www.sasktenders.ca.
21. All addenda become part of the Contract Documents or the Bid Documents, as appropriate. Bidders are responsible for addressing all addenda in preparing Bids and should confirm, prior to submitting Bids, that all issued addenda have been received.

EXAMINATION OF THE SITE

22. The Bidder is responsible to obtain all necessary information regarding the worksite prior to preparing and submitting its Bid, including examining the location and making whatever inquiries and arrangements necessary for it to be satisfied as to the nature of the location and local conditions and all matters which may in any way affect the Work.

COMPLETION OF BIDS

Bid Form Completion

23. Bidders should complete the Bid Form, and all Appendices which are attached to the Bid Form, in their entirety and in accordance with these Instructions to Bidders and any directions in the Appendices.
24. The Bid Form should be executed by an authorized representative of the Bidder.

Schedule

25. The Owner requires Substantial Performance of the Work within the second quarter of the new year 2019 and requires the successful Bidder to achieve any milestones set out in Appendix E – Schedule.
26. As stated in the Supplementary Conditions, the Contract for this project establishes liquidated damages to be payable by the Contractor if, subject to excusable delays, Substantial Performance of the Work is not achieved by the required date.

Bidder Qualifications

27. Bidders should submit completed copies of CCDC 11 — Contractor Qualification Statement in accordance with the instructions in Appendix H and in form CCDC 11.
28. The successful bidder will be required to obtain a City of Moose Jaw Business license.

Safety

29. The Contract requires that the Contractor assume the role of prime contractor for the project for the purposes of *The Occupational Health and Safety (Prime Contractor) Regulations* (Saskatchewan).
30. Bids should be accompanied by a current clearance certificate from the **Worker's Compensation Board of Saskatchewan for the Bidder**.

Bid Security

31. Bids should be accompanied by a security deposit consisting of a properly executed Bid Bond in form CCDC-220 (or other form approved by the Consultant) **for 10% of the total Bid price stated in the Bid Form**. Bid Bonds should be issued by a bonding company licensed in the Province of Saskatchewan to conduct the business of a surety.

Consent of Surety

32. Bids should be accompanied by a Consent of Surety, licensed to conduct business in the Province of Saskatchewan as a surety, to provide a Performance Bond and Labor and Material Payment Bond, each in an amount of 50% of the total Bid price stated in the Bid Form.

Bid Submission

33. Bids should include the following, completed in accordance with these Instructions to Bidders:
- (a) one executed copy of the Bid Form;
 - (b) the Appendices to the Bid Form (completed in accordance with the instructions in the Appendices), schedule, and resumes of the Project Manager and Site Superintendent;
 - (c) Bid Security;
 - (d) Consent of Surety to provide the prescribed performance security;
 - (e) CCDC 11 — Contractor's Qualification Statement; and
 - (f) Insurance Liability with \$2,000,000.00 coverage and
 - (g) Worker's Compensation Board Clearance Certificate.

The above items should be submitted in a sealed opaque envelope, clearly identified with Bidder's name, Project name and Owner's name on the outside.

34. In Appendix H – Conflict of Interest Disclosure, Bidders should disclose any actual or potential conflicts of interest that may exist between the Bidder and its management, and the Owner, its members of Council and management, and the nature of such conflict of interest. The Owner's employees are ineligible to participate, directly or indirectly, with any Bidder.

Amendment/Withdrawal of Bid

35. Amendments to submitted Bids will be permitted if received in writing prior to the Bid submission deadline and if executed in the same manner as the original Bid.
36. Bidders may withdraw their Bids at any time prior to the deadline for submitting Bids by giving written notice to the Consultant, signed by the Bidder. Bidders that withdraw their Bids may resubmit a Bid in accordance with these Instructions to Bidders prior to the Bid submission deadline.

EVALUATION OF BIDS

37. In evaluating Bids, Moose Jaw expects to select the Qualified Bidder with the best value.
38. The Owner will hold a public Bid opening on **February 8, 2019 @ 2:00 p.m. (Central Standard Time)**. Information (including pricing) will be provided at the tender opening only and at no other time. The Bid opening will be held at:

City Hall, 4th floor Parks and Recreation Department
228 Main Street N, Moose Jaw
39. The Owner will complete its evaluation of Bids privately to determine whether Bids read at the public opening are compliant with these Instructions to Bidders, and to determine which Bidder is best value.
40. The Owner will determine who is a Qualified Bidder in its sole discretion, considering the following evaluation criteria:
 - (a) satisfaction of the specifications for the Goods identified in Schedule A;
 - (b) the Bidder's qualifications, experience and capacity to supply the goods and perform its obligations under a Contract with Moose Jaw;
 - (c) the completeness of a Bidder's Bid submission; and
 - (d) such other criteria as Moose Jaw considers relevant.
41. Moose Jaw will assess whether each Bidder is a Qualified Bidder primarily based on the information contained in each Bidder's Bid. In addition, in assessing the Bidder's qualifications, Moose Jaw may have regard to the following:
 - (a) clarifications and/or additional information that may be supplied pursuant to requests from Moose Jaw;
 - (b) interviews and/or reference checks that may be conducted at Moose Jaw's discretion;
 - (c) previous experience of Moose Jaw in working with the Bidder; and
 - (d) information received from any source that Moose Jaw considers reliable.
42. In determining the best value among Qualified Bidders, Moose Jaw expects to take into consideration all pricing information submitted with the Bids received, including any alternate pricing or pricing for optional components of the Goods.
43. The Owner may, in its sole discretion, request clarification from a Bidder during the evaluation process. In responding to a request for clarification, the Bidder may not revise, amend or otherwise alter its Bid.
44. The Owner intends to evaluate Bids in the manner and based on the criteria set forth in these Instructions to Bidders, and the lowest or any Bid will not necessarily be accepted.

45. The Owner may, in its sole discretion, retain for consideration Bids that are non-conforming because they fail to comply with these Instructions to Bidders regarding content, form, submission process or any other matter. The Owner may waive any defects, informalities or irregularities in a Bid and accept a Bid which contains any such defects, irregularities or informalities.
46. The Owner may, in its sole discretion, between the opening of Bids and the award, if any, provide Bidders with an opportunity to correct any defects, informalities or irregularities in their Bid.

BID ACCEPTANCE

47. Bids must remain open for acceptance and be irrevocable for a **period of 60 (sixty)** calendar days after the Bid submission deadline.
48. The Owner will notify the selected Bidder in writing that its Bid has been accepted. The Owner will then prepare the Contract Documents based on the selected Bid and will deliver the Contract Documents to the selected Bidder for execution. The effective date of the Contract Documents will be the date the selected Bidder is notified. The selected Bidder will be obligated to execute the Contract Documents and deliver the required performance security (if any) within 3 working days after receipt of the Contract Documents for execution. Failure to do so will result in the forfeiture of the selected Bidder's Bid Security. Retaining the Bid Security in such cases shall not constitute waiver of any additional rights and remedies that the Owner may have against the Bidder.
49. The Owner intends to notify all unsuccessful Bidders, by e-mail, promptly after execution of the Contract Documents. Unsuccessful Bidders may request a debriefing interview, to obtain feedback on their submission, within four weeks after receiving a notification letter.
50. The security deposits of unsuccessful Bidders will be returned as soon as possible after the selected Bidder executes the Contract Documents and provides the prescribed performance security. If no contract is awarded, all security deposits will be returned.
51. The security deposit of the successful Bidder will be returned after the Bidder has executed the Contract Documents and delivered the required performance security.

MISCELLANEOUS

52. If all qualified Bids (as determined by the Owner in its sole discretion) exceed the amount that the Owner has budgeted for this project or if the Owner otherwise determines, at its sole discretion, that not entering into a contract with any of the Bidders would be in its best interests, the Owner may:
 - (a) reject all Bids;
 - (b) cancel this tender;
 - (c) issue a new tender or commence another procurement process, with or without adjusting the scope of work; and/or

- (d) enter into negotiations with one or more qualified Bidders in order to obtain a lower price that is within the Owner's construction budget, with or without adjusting the scope of work.
53. The Bidder is expected to keep confidential all documents, data, information and other materials of the Owner which are provided to or obtained or accessed by the Bidder in relation to this project (which has not otherwise been made publicly available) and not make any public announcements or news releases regarding this project or the selection of a Bidder, without the prior written approval of the Owner.
54. Bidders are advised that as a city, the Owner is subject to the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan), which provides a right of access to information in records under the control of a city. Bidders are advised that the Owner may be required to disclose the Bid Documents and a part or parts of any Bid in response to this tender pursuant to *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan).
55. Bidders are also advised that *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan) does provide protection for confidential and proprietary business information; however, proponents are strongly advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their proposal in response to this tender. Bidders should identify any information in their proposals that they consider to be confidential or proprietary business information.
56. The Owner is not responsible for any costs incurred by the Bidders in preparing their Bid submission or otherwise in participating in this procurement.
57. The Bidder, by submitting a Bid, agrees that if the Owner breaches any of the duties, responsibilities or obligations owed to the Bidder as a result of the Bidder's participation in this procurement process, the Owner's maximum aggregate liability to the Bidder will be the reasonable costs actually incurred by the Bidder in preparing its Bid. The Bidder, by submitting the Bid, hereby waives any other claim, including, without limitation, any claim for any loss of profits, in the event the Bid is not selected by the Owner.
58. This procurement is subject to Annex 502.4 of the Agreement on Internal Trade.
59. The successful proponent will invoice after the completion of the project. Payment will be completed once Moose Jaw approves the completed work.
60. The equipment's should be ready in the site for installation and Moose Jaw will like to inspect the equipment's before installation.
61. The successful proponent (contractor or subcontractor) should obtain a proof of vulnerable sector check.

SCHEDULE A

Specification of Equipment's and Detailed Drawings

The bidder should refer to the drawing provided by the consulting for the specification of equipment's and construction details and designs. Drawing is attached with the tender documents

BID FORM

Project Title Humidifier Replacement – Library/Art Museum
and Location: 461 Langdon Cres, Moose Jaw, SK S6H 0X6.

Submitted To: City of Moose Jaw (the "Owner")

Submitted c/o
McGinn Engineering Limited
1457 Albert Street, Regina, SK S4R 2R8

We, _____
(Company Name)

of _____
(Business Address)

having examined the Contract Documents, Bid Documents, Addenda No. __ to No. _____ inclusive, all as issued by **McGinn Engineering Limited** and having visited the project worksite; hereby offer to enter into a contract to perform the work required by such documents for the price(s) specified in the Appendices to this Bid Form.

Prices are quoted in Canadian funds and include any applicable taxes in force at this date (including Provincial Sales Tax (PST)), but excluding the Goods and Services Tax (GST).

Appendices to Bid:

The following listed forms are attached to and form an integral part of this Bid:

- (i) Appendix A – Contract Document Review
- (ii) Appendix B – Stipulated Price / Unit Prices
- (iii) Appendix C - Force Account Rates
- (iv) Appendix D – Alternative Prices
- (v) Appendix E – Schedule
- (vi) Appendix F – Project Manager and Site Superintendent
- (vii) Appendix G – Subcontractors
- (viii) Appendix H – Conflict of Interest Disclosure
- (ix) Appendix I – Contractor Qualification Statement - CCDC 11

Declarations:

We hereby declare that:

- (i) we agree to perform the Work in compliance with the required completion schedule stated in the Bid Documents and the Contract Documents identified in the Instructions to Bidders;
- (ii) no person, firm or corporation other than the undersigned has any interest in this Bid or in the proposed Contract for which this Bid is made;
- (iii) this Bid has been prepared without any collusion, comparison or arrangement with any other party that is submitting a Bid for this project;
- (iv) we are able to provide the insurance required by the Contract Documents; and
- (v) this Bid is open to acceptance for a period of sixty (60) days following the Submission Deadline specified in the Instructions to Bidders.

We agree that, if the Owner breaches any of the duties, responsibilities or obligations owed to us as a result of our participation in this procurement process, the Owner's maximum aggregate liability to us will be the reasonable costs actually incurred by us in preparing our Bid. We hereby waive any other claim, including, without limitation, any claim for any loss of profits, in the event that our Bid is not selected by the Owner.

We understand that the Owner may not necessarily accept the lowest or any bid submitted.

Signatures:

Signed and submitted for and on behalf of:

Company:

(Name)

(Street Address or Postal Box Number)

(City, Province and Postal Code)

Signature:

Name & Title:

(Please Print or Type)

Dated at _____ This _____ day of _____, 20 _____

APPENDIX "A"

CONTRACT DOCUMENT REVIEW

Select the appropriate statement that applies to your review of the Contract Documents:

- We represent and warrant that we have carefully and diligently reviewed the Contract Documents and that we have not identified any error, omission, inconsistency, or discrepancy in the Contract Documents in respect of the Work, which would impact the Contract Price or Contract Time.

OR

- We represent and warrant that we have carefully and diligently reviewed the Contract Documents and that, except as noted below, we have not identified any error, omission, inconsistency, or discrepancy in the Contract Documents in respect of the Work, which would impact the Contract Price or Contract Time:

Date(s) of notice(s) to Consultant:

Summary of error, inconsistency, omission and/or discrepancy noted:

Bidder Initials

APPENDIX "B"

STIPULATED PRICE / UNIT PRICES

STIPULATED PRICE

The following is our stipulated price to perform the work required by the Contract Documents:

Base Price:	\$
Add 50% Performance Bond:	+\$
Add 50% Labor and Material Payment Bond:	+\$
Add GST:	+\$
Total Stipulated Price	\$

Item No.	Quantity	Goods	Price per Unit	Price (CDN \$)
1.		Humidifiers	\$	\$
2.		Water treatment system	\$	\$
3.		Demolition/ Construction	\$	\$
4.		Installation	\$	\$
5.		Average Hourly rate for laborer		
6.		Laborer 1 –		\$
7.		Laborer 2 -		\$
8.		Laborer 3 -		
9.		Laborer 4 -		
10.		Laborer 5 -		
11.		Equipment Rental (if applicable)		\$
12.		Permits		\$
13.		Miscellaneous		\$
		SUBTOTAL		\$
		GST		\$
		PST		\$
		TOTAL BID PRICE		\$

Bidder Initials

UNIT PRICES

Bidder Initials

APPENDIX "C"

FORCE ACCOUNT RATES

The following are our Force Account Rates that may be used at the Owner's option for valuing changes to the Work.

*The listed Force Account Rates should at a minimum include the following:

<p>Bidder Initials</p>

APPENDIX "D"

ALTERNATIVE PRICES

The following are our prices for the Alternative Work listed hereunder. Such Alternative work and amounts are **NOT** included in our Stipulated Price.

Description of Alternative Work	Effect on Stipulated Price (\$)	
	Addition	Deduction

APPENDIX "E"

SCHEDULE

We confirm that the Work will commence on the _____ day of February 2019 or anytime thereafter and Substantial Performance shall be achieved on the _____ day of _____, _____.

We confirm we will complete the Work in accordance with the following milestones:

Milestone	Completion Date

Insert the detailed schedule for performance of the Work, including significant milestones.

Bidder Initials

APPENDIX "F"

PROJECT MANAGER AND SITE SUPERINTENDENT

The following are the Project Manager and Site Superintendent that we propose to utilize on the project.

The Owner expects these individuals will remain assigned to this project until the completion of the Work.

*Only one Project Manager and one Site Superintendent can be proposed. Multiple or alternative project managers and site superintendents are not acceptable.

** Bidders should also submit resumes of qualifications and experience of such Project Manager and Site Superintendent.

Name of Project Manager

Name of Site Superintendent

Bidder Initials

APPENDIX "G"

SUBCONTRACTORS

The following are the Subcontractors we propose to use for the Divisions or Sections of Work listed hereunder.

* The listed subcontractors should at a minimum include the following subtrades:

<u>Scope of Work</u>	<u>Subcontractor</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Bidder Initials

APPENDIX "H"

CONFLICT OF INTEREST DISCLOSURE

Select the appropriate statement that applies:

- We represent and warrant that we are not aware of any actual or potential conflicts of interest between the Bidder and its management, and the Owner, its members of Council and management.

OR

- We represent and warrant that we are not aware of any actual or potential conflicts of interest between the Bidder and its management, and the Owner, its members of Council and management except as set out below:

Summary of the nature of any actual or potential conflict of interest:

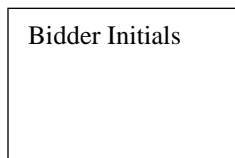
Bidder Initials

APPENDIX "I"

CONTRACTOR QUALIFICATIONS STATEMENT – CCDC 11

See Attached.

Bidder Initials



SCHEDULE "C" – FORM OF SUPPLY AGREEMENT

This Supply Agreement is made as of the _____ day of _____, 20__

Between:

CITY OF MOOSE JAW and (the "**Supplier**")
("**Moose Jaw**")

Moose Jaw wishes to engage the Supplier for the supply of the products to Moose Jaw. Accordingly, Moose Jaw and the Supplier agree as follows:

1. **Contract Documents:** The rights and obligations of Moose Jaw and the Supplier are set forth in this Contract, and the following attached Schedules:
 - Schedule A - Specification for Goods
 - Appendix E - Commercial Terms
 - Appendix F - General Conditions

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

2. **Goods:** The Supplier shall supply the Goods and any ancillary Services described in the attached Schedule A – Specifications for goods in accordance with this Contract.
3. **Payment:** Moose Jaw agrees to pay the Supplier for the Goods supplied and any Services performed, the amounts set forth in the attached Appendix A – Goods/ Pricing within the Bid Form at the times and in the manner prescribed by this Contract.
4. Subject to the provisions of the Contract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of TEN PERCENT (10%), the Owner shall;
 - 4.1 make progress payments for the completion of each Installation Site including applicable taxes and;
 - 4.2 Upon substantial Performance of the Work and the acceptance of all deliverables by the Building and Facilities Supervisor, pay the Contractor the unpaid balance of the holdback.
5. **Counterparts:** This Contract may be executed in one or more counterparts and may be executed and delivered by facsimile or electronic mail, and all the counterparts taken together constitute one and the same instrument.
6. **Notices:** All notices or other communications between the parties under this Contract shall be in writing and delivered to the address set out below:

Chris Heisler, Building and Facilities
Supervisor
City of Moose Jaw
Phone: 306-631-5945
E-mail: cheisler@moosejaw.ca

Supplier:
<insert address>
Fax: (<area code>) <fax number>
Attention: <name or title>

7. **Binding Agreement:** Moose Jaw and the Supplier, intending to be legally bound, have signed this Contract.

CITY OF MOOSE JAW

[SUPPLIER]

By: _____

Name:

Title:

By: _____

Name:

Title:

APPENDIX E – COMMERCIAL TERMS

1. Contract Price

- 1.1 The Contract Price to be paid by Moose Jaw for the supply of the Goods and performance of the Services (plus applicable taxes) is outlined in the Bid Form – Appendix A Goods/ Pricing.
- 1.2 The Supplier shall be the importer of record for any Goods imported into Canada. The Supplier shall provide all properly completed customs invoices, declarations, and evidence of export or import.

2. Delivery Location

- 2.1 The Contract Price is based on the Supplier shipping all Goods Delivered Duty Paid (Incoterms, 2010) to <Description of Delivery Location> (the "**Delivery Location**").

3. Delivery Schedule

- 3.1 The Supplier shall complete delivery of the Goods:
- on or before _____.
- OR-
- in accordance with the Milestone Schedule at Appendix 1 to this Schedule B – Commercial Terms,
- 3.2 Partial shipments permitted: Yes or No

4. Invoicing

- 4.1 The Supplier may invoice Moose Jaw:
- upon complete delivery of the Goods and completion of the Services,
- OR-
- in installments upon achieving the milestones, as indicated in the table attached at Appendix 1 to this Schedule B – Commercial Terms, subject to and in accordance with this Contract.
- 4.2 Invoices may be submitted electronically to <insert address>. Invoices shall be accompanied by such documentation and information as Moose Jaw may reasonably require.

APPENDIX F – GENERAL CONDITIONS

Interpretation

Definitions

In this Contract:

"**Alternative Terms**" means any terms or conditions contained in any document which has been or may in the future be supplied to Moose Jaw by the Supplier which are in addition to, different from, inconsistent with, or attempt to vary this Contract, whether such terms or conditions are set forth in the Supplier's bid, proposal, order acknowledgement, invoice or otherwise disclosed to Moose Jaw;

"**Claim**" means any claim, demand, action, cause of action, suit or proceeding;

"**Confidential Information**" means: (i) the terms and conditions of this Contract; (ii) all knowledge and information concerning the technical, commercial and business operations of Moose Jaw; (iii) any third party proprietary information in the custody and control of Moose Jaw; or (iv) any personal information as defined in *The Local Authority Freedom of Information and Protection of Privacy Act* (Saskatchewan); which may be acquired by the Supplier in the course of negotiation or performance of this Contract;

"**Contract**" or "**Contract Documents**" means the Signed Agreement together with: (a) all of the schedules attached to the Signed Agreement and all documents incorporated by reference into those schedules; and (b) all other amendments to this Contract from time to time, duly executed by the parties;

"**Contract Price**" means the aggregate or total contract price specified in Schedule B – Commercial Terms for the delivery of the Goods and performance of any Services, excluding applicable GST and PST which is required to be levied on such contract price;

"**Delivery Location**" means the location specified in Schedule B – Commercial Terms where the Goods are to be delivered or the Services are to be performed;

"**Effective Date**" means the date first written on the Signed Agreement;

"**General Conditions**" means this Schedule of General Conditions attached to the Signed Agreement;

"**Goods**" means the supply of the materials or equipment set out in Schedule A – Scope of Supply;

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

"**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 Goods

and any Services or the performance of the Supplier'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;

"**Moose Jaw**" has the meaning set out on the Signed Agreement;

"**Moose Jaw Personnel**" means the City of Moose Jaw and its Councillors, agents, officers, directors and employees, or any of them;

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

"**Services**" means the performance of all services set out in Schedule A – Scope of Supply, including, without limitation, the re-performance of any deficient or defective Services;

"**Signed Agreement**" means the Supply Agreement signed by the parties to which the Contract schedules are attached (if applicable); and

"**Supplier**" has the meaning set out on the Signed Agreement.

Rule of Interpretation

If there is a conflict or discrepancy between, among or within any provisions of this Contract imposing obligations on the Contractor, the more stringent requirement, specification, standard, criteria, warranty or obligation governs.

Law of the Contract

The Laws of the Province of Saskatchewan (excluding the United Nations' Convention on Contracts for the International Sale of Goods) and the Laws of Canada applicable in the Province of Saskatchewan govern the interpretation, validity and enforceability of this Contract. The Supplier agrees to submit to the jurisdiction of the courts of the Province of Saskatchewan.

Entire Agreement

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.

Moose Jaw rejects all Alternative Terms. Moose Jaw's acceptance of the Goods or any Services is not an implied acceptance of any Alternative Terms.

Goods and Services

Quality Requirements

The Supplier acknowledges and agrees that:

all Goods and any Services must conform to and meet all applicable specifications, drawings and descriptions set out in Schedule A – Scope of Supply and all other requirements of this Contract;

unless otherwise stated in this Contract, all Goods must be of good quality, new and undamaged;

the Goods must be free from defects in design, materials and workmanship at the time the Goods are received at the Delivery Location;

the Goods must be fit and suited for Moose Jaw's purpose and use specified in this Contract; and

any Services must be performed in accordance with prudent industry standards for services of a similar nature, having regard to the requirements of this Contract.

Services Provided by the Supplier

When any aspect of this Contract involves attendance at or the performance of any Services at a site owned or occupied by Moose Jaw, the following provisions apply:

the Supplier shall, and shall cause all persons involved in any Services at the Delivery Location to, comply with Moose Jaw's safety policies and all other site rules and regulations;

the Supplier shall have complete control and responsibility for the safety and health of all persons involved in performing any Services, and shall take all necessary precautions to guard against any person being injured or damage to property during the performance of any Services;

the Supplier shall notify Moose Jaw in advance of any hazardous materials that it intends to bring onto such site, and provide Moose Jaw with the appropriate Material Safety Data Sheets for such materials;

the Supplier shall maintain commercial general liability insurance and automobile liability insurance, each with a limit of not less than \$5,000,000 per occurrence. The terms of such insurance must be satisfactory to Moose Jaw, acting reasonably and the Supplier shall provide Moose Jaw with satisfactory proof of such insurance coverage upon request; and

the Supplier shall ensure that workers' compensation covers all workers engaged in performing any Services in accordance with the *Workers' Compensation Act, 2013* (Saskatchewan).

Compliance with Laws

The Supplier shall:

ensure that the Goods comply with applicable Laws;

comply with all applicable Laws in performing its obligations under this Contract; and

provide Moose Jaw with evidence of compliance with Laws when Moose Jaw reasonably requests.

Delivery and Completion

Unless stated otherwise in this Contract, Goods must be delivered Delivery Duty Paid (Incoterms 2010) to the Delivery Location. The Supplier shall complete the delivery of the Goods and performance of any Services in accordance with the times or milestones specified in this Contract.

The Supplier will package and protect the Goods to the extent necessary in order to allow for the safe loading, transport and unloading of the Goods at the Delivery Location, including complying with any packaging and shipping specifications included in this Contract.

Partial shipments are not permitted unless otherwise agreed to in writing by Moose Jaw.

Inspection and Rejection

Despite the passage of title to the Goods to Moose Jaw, all Goods are subject to Moose Jaw's inspection and acceptance or rejection after delivery. If rejected, Moose Jaw will hold the Goods for disposal at the Supplier's risk and expense. No payment for, inspection of, or acceptance of any part or all of the Goods will relieve the Supplier from its responsibility to provide Goods conforming to this Contract.

Title and Risk of Loss

Despite any shipping arrangement specified in this Contract, the Supplier shall have the risk of loss for all Goods shipped under this Contract until receipt by Moose Jaw of such Goods at the Delivery Location, at which time title to and risk of loss with respect to such Goods will pass to Moose Jaw, free and clear of all liens, charges or encumbrances whatsoever.

Liens

If Moose Jaw receives written notice of any claim of lien from or if any claim of lien should be recorded by any subcontractor, laborer or supplier, the Supplier shall promptly cause such written notice of claim or claim of lien to be discharged and removed or make such other financial arrangements so as to fully protect the interest of Moose Jaw as Moose Jaw may approve.

Moose Jaw shall, after giving at least five business days' advance notice to the Supplier of its intention to do so, be entitled to employ any monies then due or to become due to the Supplier under this Contract in order to discharge every such lien by bond or posting of other security (including security for costs), or by paying the amount claimed into court or directly to the lien claimant.

The Supplier shall indemnify Moose Jaw from any losses or expenses suffered or incurred by Moose Jaw (including disbursements and legal fees on a solicitor and his own client full indemnity basis) in connection with any liens claimed or recorded by any subcontractor, labourer or supplier in relation to the Goods and any Services.

Warranty Repair

If any defect or deficiency in, or failure of, the Goods occurs within 12 months from Moose Jaw's receipt of the Goods or completion of any Services, however caused or arising (excluding normal wear and tear), the Supplier shall repair or replace the defective or deficient Goods, including, without limitation, remove, replace and re-install such defective or deficient Goods, and/or take such other corrective action as may be required.

All repairs or replacements of defective Goods by the Supplier will be warranted by the Supplier for a further period equivalent to the warranty period for Goods set forth in Section 2.8(a).

If the Supplier fails to repair, replace or make good any such defect, Moose Jaw may, upon notice to the Supplier, take such action on its own and charge the cost thereof to the Supplier and the Supplier will promptly pay Moose Jaw for the costs so incurred.

Notwithstanding any other provision of this Contract, if Schedule A – Scope of Supply or any other warranty documentation provided by the Contractor) prescribes a warranty period for certain Goods which is longer than the warranty periods identified in this Section 2.8, the Supplier's obligation to correct any defect or deficiency in, or failure of those aspects of the Goods will extend for such additional period of time.

Excusable Delays

The Supplier shall not be liable for delays in the delivery of the Goods or performance of any Services due to unforeseeable causes not within the Supplier's reasonable control; provided that, the Supplier immediately notifies Moose Jaw in writing of any such delay. The Supplier shall take all reasonable steps to mitigate the effects of such delay and provide Moose Jaw with prompt notice upon cessation of such delay. If such delay is or is expected to be more than 15 days, Moose Jaw may cancel all or any portion of the Goods or any Services by giving written notice to the Supplier. Upon such cancellation, Moose Jaw shall pay the Supplier for the completed Goods delivered to the Delivery Location. Moose Jaw shall have no further liability to the Supplier in relation to such cancellation.

Payment

Payment of Invoices

Each Supplier invoice must:

be only for the value of the Goods supplied and any Services performed as of the invoice date;

separately identify all GST and PST which applies to the invoiced amount; and

list the Goods and any Services to which it relates.

Payment of all undisputed amounts of each invoice is due within 30 days after receipt of such invoice by Moose Jaw, provided the Supplier is otherwise in compliance with this Contract.

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

Full Compensation

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

Price Inclusive

Except for any applicable GST and PST which is required to be levied on the Contract Price, the Contract Price includes all taxes, duties, premiums, levies, contributions, assessments, freight charges, licensing fees, packing charges, insurance charges and any other charges whatsoever in connection with the Goods and any Services.

Taxes

The Supplier shall: (a) comply with the *Excise Tax Act* (Canada) and the *Provincial Sales Tax Act* (Saskatchewan) regarding the collection and remittance of all applicable GST and PST; and (b) promptly pay or remit to the appropriate governmental authority when due all applicable GST and PST. The Supplier shall indemnify and save harmless Moose Jaw from and against liability for all sales taxes, excise taxes, workers' compensation assessments or other charges (including late interest and penalties) in relation to the performance of the Work that are payable by the Supplier to any governmental authority.

Set-off

Despite any other provision of this Contract, Moose Jaw may withhold, set-off or deduct from any amount otherwise due to the Supplier on any application for payment or make demand under any security available, any amount that is reasonably necessary to reimburse, indemnify or protect Moose Jaw from any loss or damage resulting from or attributable to the Supplier's breach of this Contract, or to reimburse Moose Jaw for any amounts otherwise due and payable by the Supplier to Moose Jaw under or arising from this Contract.

Termination

Moose Jaw's Right to Terminate

Moose Jaw may terminate this Contract by providing written notice to the Supplier, if the Supplier:

fails to comply with any of the terms or conditions of this Contract, or

becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, is subject to the appointment of a receiver, manager, trustee or liquidator, or has commenced dissolution, liquidation or winding up proceedings.

Termination

Upon termination by Moose Jaw under Section 4.1 of these General Conditions, the Supplier shall, at the option of Moose Jaw, immediately deliver to Moose Jaw all components of the Goods as they exist on the date of termination. Despite any other provision in this Contract respecting passage of title, all right, title and interest of the Supplier in the Goods, as the Goods exist on the effective date of termination, immediately pass to and vest in Moose Jaw.

Cancellation by Moose Jaw

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

Indemnity

Supplier Indemnification

The Supplier shall indemnify and hold harmless the Moose Jaw Personnel from and against all liability, damage, losses, expenses or costs (including, without limitation, legal fees and disbursements on a solicitor-client basis), suffered or incurred as a result of Claims that are made, brought or prosecuted in any manner whatsoever against the Moose Jaw Personnel by a third party, to the extent any such Claim is based upon, arises out of, results from or is attributable to: (i) the negligent acts or omissions, gross negligence or willful, wanton or intentional misconduct of the Supplier, any subcontractor or anyone for whose acts or omissions any of them may be liable in the supply of the Goods and performance of any Services; or (ii) a breach of this Contract by the Supplier.

Intellectual Property and confidentiality

Intellectual Property

The Supplier warrants that the Goods and any Services and Moose Jaw's use and operation of the Goods, will not infringe on any existing or pending patent, copyright, industrial design or other intellectual property right.

The Supplier grants to Moose Jaw a fully paid, non-exclusive, transferable, worldwide royalty free, irrevocable license to use any drawing or other information provided by the Supplier pursuant to this Contract (including any intellectual property rights embodied in such drawing or other information) for the purposes of using, operating, repairing, making or having made replacement parts for, maintaining, upgrading, enhancing, altering or otherwise dealing with all or part of the Goods.

Confidentiality

Without the prior written consent of Moose Jaw, the Supplier shall: (a) keep all Confidential Information strictly confidential; (b) not divulge to any third party any Confidential Information; (c) not make any commercial use whatsoever of any Confidential Information; and (d) only use Confidential Information solely for the Supplier's performance of this Contract.

General

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.

Waiver

No waiver by Moose Jaw of any provision of this Contract, nor consent by Moose Jaw to any departure therefrom, shall in any event be effective unless it is signed by an officer of Moose Jaw, and then shall be effective only in the specific instance and for the purpose for which such waiver was given.

Modification

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

No Assignment

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

Survival of Covenants, Representations and Warranties

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

Enurement

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

Humidifier Replacement – Library/Art Museum
December 28, 2018
Project Number: PR 11-03

City of Moose Jaw, Saskatchewan
BID FORM
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