Dear [Redacted],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MA/68/2016]

On August 11, 2016, the Department of Municipal Affairs received your request for access to the following records/information:

"Request detailed breakdown of all consultants used by department between December 1, 2015 to August 11, 2016. Please include agreements/contracts, amount paid to date as well as scope of work and associated time frames."

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs to provide access to the requested information. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act, 2015 (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed.
to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 729-6528 or by e-mail at scottwinters@gov.nl.ca.

Sincerely,

Scott Winters
Manager of Accountability / ATIPP Coordinator
<table>
<thead>
<tr>
<th>Vendor</th>
<th>Dec 1, 2015 - March 31, 2016</th>
<th>April 1, 2016 - Aug 11, 2016</th>
<th>Total</th>
<th>Associated Time Frames as per contract</th>
<th>Scope of Work</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>PINCHIN LEBLANC ENVIRONMENTAL LIMITED</td>
<td>$2,130</td>
<td>$0</td>
<td>$2,130</td>
<td>Start date: November 26, 2015</td>
<td>Residential hazardous building materials assessment</td>
<td>Services by the consultant commenced prior to December 1, 2015. However, the consultant's service continued into the dates specified by the request.</td>
</tr>
<tr>
<td>W WAYNE THISTLE</td>
<td>$18,062</td>
<td>$0</td>
<td>$18,062</td>
<td>Start date: October 18, 2015</td>
<td>To conduct and report on a public hearing regarding the Witless Bay Municipal plan</td>
<td>Services by the consultant commenced prior to December 1, 2015. However, on November 20, 2015, the Department approved a 25 day extension of the consultant's contract.</td>
</tr>
<tr>
<td>MAE Design</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>Start date: July 25, 2016</td>
<td>Evaluations of 23 recreational cottage lots within the Salmonier Cottage Development Area for their capability to support on-site septic systems</td>
<td>Services provided by the consultant were rendered within the time period specified in the atipp request, however payment has not yet been made.</td>
</tr>
</tbody>
</table>

| Total Professional Services - Consultant Fees | $20,192                      | $0                          | $20,192|                                           |                                                                             |                                                                                                                                                                      |
November 26, 2015

Pinchin LeBlanc Environmental Limited
c/o Paul Staeben, Regional Vice President of Nfld. & Labrador
27 Austin Street, 2nd Floor
St. John's, NL
A1B 4C

Dear Mr. Staeben:

RE: Hazardous Materials Assessment – Abandoned Residence – Cottlesville

We are pleased to inform you that your submitted bid of $2,130.00 plus HST, all inclusive of expenses, time and sampling to complete a hazardous materials assessment on an abandoned residence in the Town of Cottlesville has been accepted. This is based on the originally solicited bid in an email from Mr. Dave Mercer, Land Management Specialist, with this Department on May 21, 2014 and confirmed by you on August 20, 2015.

We require the report on the assessment to be submitted to this Department within thirty (30) days from the date of this letter. Your invoice can be submitted with the report.

If you have any questions please contact Rodger Primmer, Central Regional Lands Manager, at 256-1400 or rprimer@gov.nl.ca.

Sincerely,

MILLY MEANEY
Director, Crown Lands Administration

cc Rodger Primmer, Manager, Central Region
October 19, 2015

W. Wayne Thistle, Q.C.
23 Empire Avenue
St. John’s, NL A1C 3E4

Dear Mr. Thistle:

Re: Witless Bay Municipal Plan Public Hearing

Attached herewith is your original executed copy of the Agreement related to your appointment as Commissioner for the Witless bay Municipal Plan Public Hearing.

Also attached are the following documents requested by you:

1. August 14, 2014 Commissioner’s Report regarding the Witless Bay Municipal Plan Public Hearing that was held on August 7, 2014.
5. Submissions received between close of business on October 16 and midnight October 18, 2015 by the Department of Municipal and Intergovernmental Affairs in relation to the Notice of Public Hearing for the Witless Bay Municipal Plan.

I trust that you find the foregoing in order, and should you have questions please do not hesitate to contact me at your convenience.

Yours truly,

[Signature]

Corrie Davis, MCIP
Manager
Land Use Planning, Lands Branch

/ch
AGREEMENT

THIS AGREEMENT made at St. John’s, in the Province of Newfoundland and Labrador, on this day of October 2015.

BETWEEN: HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR as represented by the Minister of Municipal and Intergovernmental Affairs ("the Client")

AND: W. Wayne Thistle ("the Consultant")

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants expressed, and as amended, the Parties agree as follows:

1. Definitions
   In addition to the terms defined in the General Terms and Conditions attached as Schedule "C", the following words and phrases shall have the following meanings:

   a. "Contract Documents" shall mean and include:
      i. This head agreement (the "Head Agreement");
      ii. The Scope of Work attached as Schedule "A";
      iii. The Special Terms and Conditions attached as Schedule "B";
      iv. The General Terms and Conditions attached as Schedule "C"; and
      v. Protocols for Security of Government Information on Information Technology assets of Contractors attached as Schedule "D".

   b. "Representatives" means directors, officers, employees, consultants, sub-consultants, agents, advisors or partners.

2. The Consultant's Work
   The Consultant shall do all things necessary to fulfill all of the obligations of the Consultant as set out in the Contract Documents (the "Work"). The Work shall be performed by the Consultant to the satisfaction of the Client.
3. **Payment**

1.1 **Consideration**

It is agreed and understood that payments made for the satisfactory performance of the Work pursuant to this Agreement shall be made in accordance with the following.

(a) Subject to Article 3.1.3, upon presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Consultant, for the satisfactory performance of the Work, the following time rate schedule for activities actually expended in performance of the Work (plus HST):

   (i) Wayne Thistle – Two Hundred Dollars ($200.00) per hour.

1.2 **Reimbursement of Expenses**

It is agreed and understood that reimbursements for the Consultant’s expenses pursuant to this Agreement shall be made in accordance with the following.

(a) The Client shall be responsible for the Consultant’s mileage expenses for travel between the City of St. John’s and the Town of Witless Bay to attend the public hearing at a rate of $0.3427 per kilometre.

(b) Apart from the expenses outlined in Article 1.2(a), the Client shall not be responsible for any expenses incurred by the Consultant, including, without limitation, out of pocket expenses such as meals, accommodations, support staff, printing and duplicating, courier, long distance telephone and/or facsimile charges, without the prior written approval of the Client.

1.3 **Payment General**

(a) The Parties agree and confirm that the total amounts payable for the Work under Article 1.1 and Article 1.2 shall not exceed a monetary ceiling of fifteen thousand dollars ($15,000) plus HST, and that a minimum of ten percent (10%) of the total fees payable for the Work will be withheld until such time as the project is completed to the satisfaction of the Client.

(b) The Consultant shall remain obligated to complete the Work notwithstanding that the actual costs of the Consultant, whether in respect of professional services or in respect of costs or expenses incurred, may exceed the total aggregate sum set out in Article 3.1.3(a).

(c) The Parties agree and confirm that as set out in section 25(6) of the *Financial Administration Act*, RSNL1990 cF-8, as amended, all fees payable in accordance with this Agreement are subject to there being an
appropriation for the work for the fiscal year in which payment under this Agreement is due.

(d) Payment will be made within 30 calendar days of receipt of a properly documented invoice.

(e) All invoices shall clearly show the amount of HST billed by the Consultant as a separate item.

(f) The Consultant shall conform to any request that may be made by the Client to alter the form of invoice customarily used by the Consultant as may be reasonably required for the purposes of the Client's internal accounting systems. The Consultant agrees that each invoice shall clearly show and identify the work or service which is being charged under that invoice to the Client. The invoice shall have appended thereto any documentation required by the Client.

(g) The Client shall not be responsible to pay any amounts invoiced by the Consultant which may arise from work, services or expenses incurred to remedy errors or omissions in the Work for which the Consultant is responsible.

(h) The Consultant shall submit invoices to:

Corrie Davis, Manager of Land Use Planning
Department of Municipal and Intergovernmental Affairs
P.O. Box 8700
St. John's, NL A1B 4J6

4. Notices

All notices, claims, payments, reports and other communications required under this Agreement shall be in writing. The addresses for service are as follows:

For the Client:

Corrie Davis, Manager of Land Use Planning
Department of Municipal and Intergovernmental Affairs
P.O. Box 8700
St. John's, NL A1B 4J6
Phone: (709) 729-5049
Fax: (709) 729-0477
Email: corriedavis@gov.nl.ca

For the Consultant:

W. Wayne Thistle, QC

Phone: [redacted]
Email: [redacted]
Notices, requests or documents shall be deemed to have been received by the addressee as follows:

(a) As of the date on which they are delivered where delivery is by a party or by messenger or special courier service;
(b) As of the date on which they are sent where delivery is by telex or other means of electronic communication; and
(c) Six (6) days after delivery to Canada Post Corporation where the postal service is used.

5. **Entire Agreement**

It is hereby agreed that the Contract Documents constitute the entire agreement between the parties (the “Agreement”). There are no understandings, representations or warranties of any kind except as expressly set forth herein. No changes, alterations, modifications or amendments of this Agreement shall be effective unless made in writing and signed by those persons designated for such purpose. This Agreement may be amended or otherwise modified by e-mail.

6. **Representations and Warranties**

The Consultant hereby represents and warrants that every fact stated or represented by the Consultant or its Representatives to the Client in connection with any proposal made by the Consultant in respect of the Work is true and agrees that the Client shall be conclusively deemed to have relied on each such representation or statement in entering into this Agreement.

7. **Conflict Between Provisions**

In the event of any conflict or inconsistency between provisions in the Contract Documents, the Contract Documents shall have precedence as follows: first the Head Agreement, second the Special Terms and Conditions, third the General Terms and Conditions, fourth the Protocols for Security of Government Information on Information Technology assets of Contractors, fifth the Scope of Work, and last, any documents incorporated by reference in any of the foregoing.

8. **Start and Completion Date**

The Consultant shall commence activities in relation to the Work with the start and completion dates mutually agreed upon as follows:

- **Start Date:** October 18, 2015
- **Completion Date:** November 20, 2015
9. **Effective Date**

The effective date of this Agreement shall be the earlier of the start date referred to in Clause 8 or the date on the first page of this Head Agreement.

10. **Paragraph Numbering**

In the event that the General Terms and Conditions are modified, the numbering references in the General Terms and Conditions shall remain unchanged.

11. **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be considered an original of this Agreement, and which together will constitute one and the same instrument. No Party will be bound to this Agreement unless and until all Parties have executed a counterpart. A facsimile signature or an otherwise electronically reproduced signature of either Party shall be deemed to be an original.

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR

[Signature]

Minister of Municipal and Intergovernmental Affairs

W. WAYNE THISTLE, QC

Authorized Signature

Date: October 16, 2015
SCHEDULE “A”
SCOPE OF WORK

The Consultant shall complete the work and perform the services in accordance with the attached Terms of Reference.
Terms of Reference
Witless Bay Municipal Plan
Independent Commissioner

Land Use Planning
Department of Municipal and Intergovernmental Affairs

October 2015
1.0 Background

The Town Council of the Town of Witless Bay ("Council") has been working to develop and adopt a new ten year municipal plan. However, and despite significant guidance and assistance provided by the Department to the Council, especially over the last 12 months, the Council was unable to complete the steps necessary to register a new municipal plan, primarily as a result of past procedural matters and ongoing conflict of interest issues respecting votes on the plan.

The Minister of Municipal and Intergovernmental Affairs ("Minister") exercised his discretion under the Municipal Affairs Act to order a plebiscite to determine which of two variations of the municipal plan was preferred by the residents of Witless Bay. On September 17, 2015, the majority of residents that voted in the plebiscite chose municipal plan Version A – May 2013 ("Proposed Municipal Plan").

In consideration of the results of the plebiscite, and other relevant context including longstanding issues relating to the municipal planning process in the Town of Witless Bay, the Minister was satisfied that it was in the public interest to advance the Proposed Municipal Plan in accordance with the provisions of the Urban and Rural Planning Act, 2000 (Act).

The Minister ordered the Council to adopt the Proposed Municipal Plan in accordance with subsection 103(1) of the Act by noon on Friday, October 2, 2015. This order was not carried out by the Council, and in accordance with subsection 103(2) and section 16 of the Act, the Minister adopted the Proposed Municipal Plan for and in the name of Council.

The Minister considers it necessary to proceed in accordance with section 26 of the Act, and carry out the duties under sections 17 to 25 of the Act on behalf of Council. As part of this process, a commissioner must be appointed to hold a public hearing and provide a written report on the Proposed Municipal Plan.

In accordance with section 19 of the Act, the Minister will appoint a commissioner to hold a public hearing on the Proposed Municipal Plan and complete a written report on that hearing.

2.0 Work of the Consultant

2.1 Schedule "A" Article 2.0 outlines the Work to be completed by Wayne Thistle ("Consultant") for Her Majesty in Right of Newfoundland and Labrador, as represented by the Minister of Municipal and Intergovernmental Affairs ("Client").

2.2 In advance of the public hearing referenced in Article 2.3, the Consultant shall review the Proposed Municipal Plan and relevant background documentation provided by the Client and written statements provided by persons and associations relating to the Proposed Municipal Plan.

2.3 The Consultant shall conduct a public hearing and shall hear objections and representations orally or in writing under oath or affirmation at the Knights of Columbus Hall located in the Town of Witless Bay, as follows:

a. on 7:00pm on Tuesday, October 20, 2015; and,

b. if the Consultant is of the view that additional time is required to hear objections or representations on the Proposed Municipal Plan, and with the prior approval of the Client, the hearing may be continued on 7:00pm on Wednesday, October 21, 2015.

2.4 Within 30 days of the conclusion of the public hearing, the Consultant shall submit to the Client a written report including:
a) a clear recommendation on whether the Proposed Municipal Plan should be approved as proposed, rejected, or approved with recommended amendments, along with detailed reasons for the recommendation;

b) detailed recommendations respecting objections and representations considered by the Consultant at the public hearing together with reasons and a statement showing objections and representations that came to the attention of the Consultant but were not considered together with the reasons why they were not considered; and,

c) two copies of evidence taken at the public hearing.

2.5 The written report referenced in Schedule “A” Article 2.4 shall be provided in such format or formats as required by the Client.

3.0 Roles and Responsibilities of the Consultant

3.1 Schedule “A” Article 3.0 provides the roles and responsibilities of the Consultant with respect to the Work.

3.2 The Consultant, in his role as commissioner, has, for the purpose of the public hearing under the Act, the same powers as a commissioner under the Public Inquiries Act.

3.3 The Consultant agrees to conduct all duties relating to the Work in accordance with the Act.

3.4 The Consultant confirms that he is not a member or an employee of a council or regional authority in the province of Newfoundland and Labrador.

4.0 Roles and Responsibilities of the Client

4.1 Schedule “A” Article 4.0 provides the roles and responsibilities of the Client with respect to the Work.

4.2 The Client will publish requisite notices of public hearing and make arrangements for appropriate meeting space for the public hearing.

4.3 The Client will provide the Consultant printed and electronic copies of the Proposed Municipal Plan, relevant background documentation and written statements provided by persons and associations relating to the Proposed Municipal Plan.

4.4 The Client will provide a member of departmental staff accredited as a Member of the Canadian Institute of Planners to deliver a presentation at the public hearing to explain the content of the Proposed Municipal Plan and how it would regulate land development within the Town of Witless Bay if implemented.

4.5 The Client will provide an audio recording of the public hearing to the Consultant.

END OF SCHEDULE “A”
SCHEDULE “B”

SPECIAL TERMS AND CONDITIONS

1. No Special Terms and Conditions.

END OF SCHEDULE “B”
### SCHEDULE “C”
#### GENERAL TERMS AND CONDITIONS

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GENERAL TERMS AND CONDITIONS

Article 1. INFORMATION SUPPLIED BY THE CLIENT
1.1 The Client will furnish to the Consultant all available information necessary for the performance of the Work. The Client makes no guarantee either expressed or implied as to the accuracy of the information supplied. The Consultant shall review the information for accuracy and applicability.

1.2 Where discrepancies, omissions or obscurities in the information are evident, the Consultant shall bring them to the attention of the Client and secure written instructions from the Client before proceeding with any work.

Article 2. CONFIDENTIALITY, MATERIALS AND COPYRIGHT
2.1 For the purposes of this Article "Confidential Information" means:
(a) all communications and instructions from the Client respecting the Services, including the fact of this Agreement;
(b) all information acquired by the Consultant, his/her employees, servants and/or agents respecting policy consideration and development, business decisions, internal deliberations, discussions and considerations and any other aspect of the decision-making process of the Client;
(c) all oral, written, electronic, and machine readable information and data and any accompanying supporting materials and documentation, including without limitation, materials, documents, reports, databases, information and data of whatever nature and kind concerning the affairs of the Client, disclosed directly or indirectly to the Consultant, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;
(d) all personal information, as defined from time to time under the Access to Information and Protection of Privacy Act, 2015 SNL2015 cA-1.2, to mean recorded information about an identifiable individual, including
(i) the individual's name, address or telephone number,
(ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
(iii) the individual's age, sex, sexual orientation, marital status or family status,
(iv) an identifying number, symbol or other particular assigned to the individual,
(v) the individual's fingerprints, blood type or inheritable characteristics,
(vi) information about the individual's health care status or history, including a physical or mental disability,
(vii) information about the individual's educational, financial, criminal or employment status or history,
(viii) the opinions of a person about the individual, and
(ix) the individual's personal views or opinions, except where they are about someone else, which is, directly or indirectly, disclosed to or collected by the Consultant, its, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;
(e) all information that is developed based upon Confidential Information including the work product of the Consultant, its, his/her employees, servants and/or agents; and

(f) Confidential Information shall not include any information which:

(i) at the time such information was provided to the Consultant was or thereafter became part of the public domain through no act or omission of the Consultant or its, his/her Representatives; or

(ii) is information which the Consultant can show possession of prior to the date of this Agreement and which was received or developed by the Consultant free of obligations of confidentiality to the Client.

2.2 The Consultant shall treat all Confidential Information acquired by the Consultant in the performance of the Services as privileged and confidential and shall not divulge the same to any person or persons at any time without the express written approval of the Client, unless required to do so by law, which may include any subpoena or other similar process or in connection with litigation, arbitration or other proceeding or by virtue of an act or regulations. In the event that such disclosure is required, the Consultant shall give the Client prompt notice of the requirement upon becoming aware that such disclosure is required. Where circumstances did not permit the Consultant to provide such notice prior to disclosure, the Consultant shall provide such notice to the Client immediately after the required disclosure.

2.3 The Consultant shall only use the Confidential Information acquired in the performance of the Services for the purposes specified in the Scope of Work and this Agreement, and shall not permit the use of the Confidential Information for any other purposes.

2.4 All materials, data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Consultant in performing the Services, including without limitation computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising therefrom are the sole and exclusive property of the Government of Newfoundland and Labrador and the contents thereof are privileged and confidential. Nothing in this Agreement shall give the Consultant a right, however arising, to assert any lien, claim, demand, property right, remedy or security right of any kind over the information provided to the Consultant pursuant to the terms of this Agreement. The Consultant acknowledges that the Client's right to this information shall at all times be paramount to any rights of the Consultant, at law or in equity, and that the Consultant's remedies against the Client for the Client's breaches under this Agreement do not include the right to deprive the Client of access to the Client's information in the Consultant's possession.

2.5 The Consultant shall provide to the Client and solely to the Client upon completion of the Services or upon earlier termination of this Agreement all Confidential Information acquired during the performance of the Services, or shall, at the request of the Client, destroy any and all copies and versions of the Confidential Information in the possession of the Consultant, his/her employees, servants and/or agents, and shall certify the destruction of same to the Client.

2.6 The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is
subject to privacy legislation in various jurisdictions, including but not limited to the Access to Information and Protection of Privacy Act, 2015 the Management of Information Act, SNL2005, cM-1.01, and the Privacy Act, RSNL1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its, his/her employees, servants and/or agents.

2.7 The Consultant shall ensure that it, his/her employees, servants and/or agents have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, including but not restricted to the following:

(a) at a minimum, using the same level of physical and electronic security as the Consultant employs to avoid disclosure or dissemination of the Consultant’s own confidential information, to prevent the disclosure of any of the Confidential Information to any third party, or to any of its employees, servants or agents other than those who are required to have access to properly perform the Services under this Agreement;

(b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;

(c) ensure all employees, servants and/or agents of the Consultant comply with all policies, standards and safeguards established under this Article;

(d) advise the Client of any changes in its, his/her security systems, procedures, standards and practices that may affect the Confidential Information and seek the Client’s consent prior to such changes; and

(e) satisfaction of the foregoing commitments includes, but is not restricted to, compliance with the requirements set out in Schedule “D”, unless otherwise advised by the Client, and this includes:

(i) complying with all alterations or updates of Schedule “D” as may be provided to the Consultant from time to time; and

(ii) adhering to any additional instructions (including oral instructions) from the Client as they relate to the subject matter contained in Schedule “D” and this Article.

2.8 The Consultant shall only disclose confidential information to persons other than its employees, servants and/or agents with the prior written consent of the Client, and then only to those persons who need to know the information in order to carry out the duties associated with this Agreement and only after confirming that such persons agree to comply with the provisions of this Article including the requirements set out in Schedule “D”.

2.9 The Consultant shall:

(a) notify the Client promptly of any unauthorized possession, use or knowledge, or attempt thereof, of the Client’s information in the possession of the Consultant, including but not limited to data processing files, transmission messages or other confidential information by any person or entity which may become known to the Consultant;

(b) promptly furnish to the Client full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist the Client in investigating or preventing
the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of confidential information;

(c) use reasonable efforts to cooperate with the Client in any litigation and investigation against third parties deemed necessary by the Client to protect its proprietary rights;

(d) promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of confidential information; and

(e) refer to and follow the privacy breach protocol of the Government of Newfoundland and Labrador as it exists at the time of the breach and located on the website at: http://www.atipp.gov.nl.ca/info/Privacy-Breach-Protocol.pdf

Article - 3. EMPLOYEES OF THE CONSULTANT

3.1 The Consultant shall provide employees who are competent in their field of specialization. The Client will have the right to have the Consultant remove from the Work any person, who by misconduct or by failure to properly perform his/her duties is considered by the Client to be unfit for employment on the Work. If the Consultant fails to remove any unfit person from the Work as requested by the Client, then the Client may void this Agreement or refuse to accept subsequent Work in which the person was involved and may refuse to approve payment for such Work.

3.2 The Consultant shall not alter, remove or replace the employees or Representatives indicated in the Scope of Work without prior written approval by the Client.

Article - 4. ACCESS TO FACILITIES

4.1 The Client agrees to provide, where it is deemed by the Client, in its absolute and sole discretion, to be necessary for the reasonable performance of the Work, working space and equipment access for the Consultant to perform the Work during Client office hours.

4.2 When using or accessing the premises of the Client, the Consultant and all officers, employees and agents of the Consultant shall comply with all security regulations and workplace policies and procedures in effect from time to time at the Client’s facilities.

Article - 5. RECORDS AND AUDIT

5.1 The Consultant shall keep records, books of account and supporting documents in accordance with accepted accounting procedures and practices. The records shall be made available to the Client or its authorized representative for observation or audit at mutually convenient times and up to one year after discharge of this Agreement.

5.2 The Consultant shall furnish reports as required by the Client for the purpose of monitoring the progress of the Work.

Article - 6. TERMINATION

6.1 This Agreement is deemed to be concluded once the Work has been completed to the satisfaction of the Client and the payment(s), as stipulated in the Agreement, has been issued to the Consultant.

6.2 Notwithstanding the provisions of this Agreement, either of the Parties may at any time by way of fourteen (14) days written notice to the other, terminate this Agreement.

6.3 Where this Agreement is terminated prior to the mutually agreed upon completion date, the Consultant shall thereupon be entitled to payment in accordance with this Agreement.
in respect of that part of the Work completed up to the date of termination, provided
however, that the Consultant shall not be entitled to any other payment in respect of
such termination, including, without prejudice to the generality of the foregoing, any
payment for any consequential loss or damage or loss of profits arising from termination
of this Agreement or in any other way related thereto.

The Client shall retain the right of set off with respect to any earned but unpaid proceeds
then owing pursuant to this Agreement.

Article - 7. LIABILITY

7.1 The Consultant agrees that in performance of the Work neither the Consultant nor any
Consultant’s Representative shall be or be deemed to be an officer, servant, agent or
partner of the Client.

7.2 The Client shall not be liable for, and the Consultant shall indemnify and save harmless
the Client and the Client’s Representatives against all losses, costs, charges, or
expenses incurred by the Client and its agents as a result of actions, claims or awards
for compensation at law, equity or under any applicable legislation, made or brought by,
against, suffered by or imposed upon the Client, or its Representatives by a third party,
as a result of or related to the performance of this Agreement by the Consultant or the
Consultant’s Representatives.

7.3 The Consultant shall defend any and all such actions and pay all legal charges, costs
and other expenses arising therefrom. Notwithstanding the foregoing, the Client may at
its own discretion retain its own solicitors to defend its interests in any such suit or claim,
and the legal costs of that defense shall be paid by the Consultant.

Article - 8. COMPLIANCE WITH LAW

8.1 In respect of any work within the Province of Newfoundland and Labrador connected
with or arising from this Agreement, the Consultant shall provide (where requested by
the Client) evidence of compliance with all requirements of the Province of
Newfoundland and Labrador with respect to Worker’s Compensation and or
Occupational Health and Safety, including without limitation, any payments or
compliance orders due or issued thereunder.

8.2 The Consultant shall ensure that the Consultant and its Representatives comply with all
requirements of any governing federal, provincial or municipal legislation, by-laws or
regulations applicable to the Consultant or the Consultant’s Representatives in the
performance of the Work.

Article - 9. ARBITRATION

9.1 In the case of a dispute arising between the Client and the Consultant as to their
respective rights and obligations under this Agreement, the parties shall first attempt to
resolve all matters through friendly negotiation by a meeting between their
representatives upon notice per Article 8. A resolution reached in this way must be
reached within 10 days of both parties having knowledge and notice of the dispute and
be reduced to writing.

9.2 In the case of a dispute arising between the Client and the Consultant as to their
respective rights and obligations under this Agreement, (that has not been resolved
pursuant to Article 11.1), either party may give the other notice of such dispute and to
request arbitration thereof. If both parties agree, the parties shall, with respect to the particular matters then in dispute, submit the same to arbitration in accordance with the provisions of the Arbitration Act, RSNL990 cA-14, including such provisions for the appointment of arbitrators.

Article - 10. LAWS GOVERNING
10.1 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador and all actions, suits or proceedings arising out of this Agreement shall be determined in a court of competent jurisdiction in Newfoundland and Labrador subject to any right of appeal.

Article - 11. USE OF WORK
11.1 The Client shall have the right to use the Work or variations thereof in other operations of the Client.

Article - 12. CONFLICT OF INTEREST
12.1 No member of the House of Assembly of the Province of Newfoundland and Labrador shall be admitted to any part or share of the payments made pursuant to this Agreement or to any benefits arising therefrom.

12.2 The Consultant and the Consultant's Representatives:
(a) shall conduct all duties related to this Agreement with impartiality;
(b) shall not influence, seek to influence, or otherwise take part in a decision of the Client, knowing that the decision might further their private interests;
(c) shall not accept any commission, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of any duties related to this Agreement, that causes, or would appear to cause, a conflict of interest; and
(d) shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of any duties related to this Agreement.

Article - 13. SUBCONTRACTORS
13.1 The Consultant shall not subcontract all or a portion of the Work without the prior written approval of the Client.

13.2 The entry into any subcontract shall not relieve the Consultant of any of its obligations under the terms of this Agreement.

Article - 14. GENERAL
(a) Articles 3 and 9 of this Agreement shall survive the termination or expiration of this Agreement.
(b) Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against.
(c) Time shall be of the essence of this Agreement.
(d) The failure of the Client to insist upon or enforce in any instance strict performance by the Consultant of any of the terms of this Agreement or to exercise any rights herein conferred shall not be construed as a waiver or a
relinquishment to any extent of the Client’s right to assert or rely upon any such terms or rights on any future occasion.

(e) If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall attach only to such provision, and all other provisions hereof shall continue in full force and effect.

(f) The division of this Agreement into Articles and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(g) This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective heirs, legal representatives, successors and assigns.

(h) The Consultant shall not assign this agreement in whole or in part to any third party without the prior written approval of the Client.

END OF SCHEDULE C
SCHEDULE “D”

Protocols for Security of Government Information on Information Technology assets of Contractors

The Consultant shall confirm with the client Department whether the Consultant will be required to use information technology resources, including computers, of the Government of Newfoundland and Labrador in the conduct of the work under the contract. The following requirements apply where the Consultant will not be using such assets, but will instead have access to confidential information (including personal information) (“Confidential Information”) received from the Government of Newfoundland and Labrador (“Government”) and will be storing, manipulating or accessing that Confidential Information on the Consultant’s own information technology resources.

- All portable storage devices or media (e.g., flash drives, memory sticks, portable hard drives, writeable compact discs or digital video discs (DVDs), etc.) may only be used to transport and / or store Confidential Information where either the Confidential Information or the device or media is encrypted.

- Unless specifically separately authorized by the Consultant’s contract or otherwise, the Consultant is not permitted to attach non-government computers or other information technology systems to any Government network.

- Consultants are expected to implement and maintain up to date versions of all ordinary business software for the reasonable protection of information on computers attached to the Internet which will have access to or store Confidential Information, including security firewall and anti-viral software.

- Consultants are not permitted to use any Peer to Peer file sharing program (e.g. Limewire, etc) or chat program (i.e., MSN, Skype) on any information technology asset which will contain Confidential Information, or which will be connected via a network to any computer which will contain Confidential Information.

- Email should not be used as a method to transmit Confidential Information across public networks such as the Internet unless the e-mail and/or its attachments are encrypted or zipped in a secure manner.

- The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in various jurisdictions, including but not limited to the Access to Information and Protection of Privacy Act, 2015 the Management of Information Act, SNL2005, cM-1.01, and the Privacy Act, RSNL1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its employees, servants and/or agents.
• Where a Consultant will be granted access to the Government computer network during the course of his/her work, in addition to the requirements noted above, the Consultant shall not:

  o Share personal computer drives or folders on a computer accessing the network; or

  o Access the network remotely, either through wired or wireless connections, except through the use of secure ID and virtual private network systems.

• These requirements apply to the Consultant and all agents, employees or permitted sub-Consultants of the Consultant, and it is the responsibility of the Consultant to ensure that all such agents, employees or permitted sub-Consultants are aware of these restrictions and are in compliance herewith.

END OF SCHEDULE D
Fyi.

Peter Howe
Assistant Deputy Minister – Lands Branch
Department of Municipal and Intergovernmental Affairs
Howley Building, Higgins Line
P.O. Box 8700
St. John’s, NL, A1B 4J6

t: 709-729-3236
e: HYPERLINK "mailto:phowe@gov.nl.ca"phowe@gov.nl.ca

Good day Mr. Thistle,

Further to our mutual agreement to amend the terms of the contract as outlined in our email exchange yesterday, for completeness I am forwarding the email confirmation approving the change from Deputy Minister Jamie Chippett.

Regards,

Peter Howe
Assistant Deputy Minister – Lands Branch
Department of Municipal and Intergovernmental Affairs

Howley Building, Higgins Line

P.O. Box 8700

St. John's, NL, A1B 4J6

t: 709-729-3236

e: HYPERLINK "mailto:phowe@gov.nl.ca"phowe@gov.nl.ca

From: Chippett, Jamie
Sent: November 19, 2015 2:19 PM
To: Howe, Peter
Cc: Davis, Corrie
Subject: Re: extension to thistle contract

I am fine with the request re extension and monetary ceiling. Please advance to Commissioner as needed.

Thanks

Jamie

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Howe, Peter
Sent: Thursday, November 19, 2015 2:13 PM
To: Chippett, Jamie
Cc: Davis, Corrie
Subject: Fw: extension to thistle contract

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Davis, Corrie
Sent: Wednesday, November 18, 2015 5:43 PM
To: Howe, Peter
Subject: Fw: extension to thistle contract

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Wayne Thistle

Sent: Wednesday, November 18, 2015 5:42 PM

To: Davis, Corrie

Subject: Re: Minute 2014 - 161

Hi Corrie

As you know the number of submissions that have to be reviewed and incorporated in the Report are quite substantial. Also, the complexity of the issues are significant and require careful analysis.

As a result, I am making a formal request to extend the deadline for submitting a Report from November 20 to December 15, 2015. Further, I am requesting that the monetary ceiling be adjusted from a maximum of $15,000 to $18,000.

I trust this is satisfactory.

Regards

Wayne
AGREEMENT

CONTRACT NO. 001-16-E
SALMONIER COTTAGE DEVELOPMENT AREA
SEPTIC SYSTEM SITE EVALUATIONS

THIS AGREEMENT made at St. John’s, in the Province of Newfoundland and Labrador, on this 25th day of July, 2016.

BETWEEN: HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR as represented by the Minister of Municipal Affairs (the “Client”) of the one part;

AND: MAE Design Limited (the “Consultant”) of the other part.

NOW THEREFORE the parties mutually covenant and agree as follows:

1. DEFINITIONS
In addition to the Scope of Work attached as Schedule “A”, the following words and phrases shall have the following meanings:

a. “Contract Documents” shall mean and include:
   i. This head agreement (the “Head Agreement”)
   ii. The Scope of Work as outlined in The Terms of Reference for Contract 001-16-E, attached as Schedule “A”.
II. THE CONSULTANT’S WORK

The Consultant shall do all things necessary to fulfill all of the obligations of the Consultant as set out in the Contract Documents (the “Work”) to the satisfaction of the Client.

III. FEES AND EXPENSES

For the satisfactory performance of the Work, the Client shall pay to the Consultant a sum not to exceed $10,400.00 plus applicable HST. Fees shall be payable, subject to the availability of an appropriation in accordance with Section 25(6) of the Financial Administration Act. The Consultant shall invoice the Client for all fees.

IV. ENTIRE AGREEMENT

It is hereby agreed that the Contract Documents constitute the entire agreement between the parties (the “Agreement”). There are no understandings, representations or warranties of any kind except as expressly set forth herein. No changes, alterations, modifications or amendments of this Agreement shall be effective unless made in writing and signed by those persons designated for such purpose. This Agreement may be amended or otherwise modified by e-mail.

V. REPRESENTATIONS AND WARRANTIES

The Consultant hereby represents and warrants that every fact stated or represented by the Consultant or its Representatives to the Client in connection with any proposal made by the Consultant in respect of the Work is true and agrees that the Client shall be conclusively deemed to have relied on each such representation or statement in entering into this Agreement.

VI. CONFLICT BETWEEN PROVISIONS

In the event of any conflict or inconsistency between provisions in the Contract Documents, the Contract Documents shall have precedence as follows: first the Head Agreement, second the Protocols for Security of Government Information on Information Technology assets of Contractors, third the Scope of Work, and last, any documents incorporated by reference in any of the foregoing.

VII. START AND COMPLETION DATE

The Consultant shall commence activities in relation to the Work with the start and completion dates mutually agreed upon as follows:

Start Date: July 25, 2016.

Completion Date (Draft Final Report Due): August 19, 2016.
VIII. EFFECTIVE DATE

The effective date of this Agreement shall be earlier of the start date referred to in Clause VII or the date on the first page of this Head Agreement.

IX. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which will be considered an original of this Agreement, and which together will constitute one and the same instrument. No party will be bound to this Agreement unless and until all Parties have executed a counterpart. A facsimile signature or an otherwise electronically reproduced signature of either Party shall be deemed to be an original.

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR

[Signatures]

Representative for:

MAE Design Ltd.
615 Conception Bay Highway
P. O. Box 17162 Station Kelligrews
Conception Bay South, NL
A1X 3H1
SCHEDULE "A"

SCOPE OF WORK

The Consultant shall complete the work and/or perform the following services:

Undertake Septic System Site Evaluations of 23 cottage lots located at Salmonier, Newfoundland and Labrador, per the Terms of Reference for Contract 001-16-E attached hereto.
SALMONIER

COTTAGE DEVELOPMENT AREA

TERMS OF REFERENCE

LIMITED CALL FOR BIDS FOR

CONTRACT NO. 001-16-E

SEPTIC SYSTEM SITE EVALUATIONS FOR

23 RECREATIONAL COTTAGE LOTS
(LOTS 189 - 211)

JULY 2016
1. PROJECT DESCRIPTION

The purpose of this project is to assess twenty-three (23) proposed recreational cottage lots (Lots 189 - 211) within the Salmonier recreational cottage Development Area for their capability to meet the requirements of the Private Sewage Disposal and Water Supply Standards (Service NL, January 2006). Initial offering of the lots for sale by Public Draw is intended for the Fall of 2016.

The successful bidder/bidding firm will not be required to complete a full engineering study as per Appendix C of the Standards but will be required to supply a report that; (i) assesses the capability of each lot to support an on-site sub-surface septic system; (ii) describes mitigating measures that may be needed for lots meeting minimum standards but requiring upgrading; and (iii) identifies lots that are not capable of meeting the Standards.

The location of the development area and recreational cottage lots are provided on Maps 1 and 2 (attached). Lot centres along roads have been marked in the field with green flagging tape. Lot corners along roads have been identified with orange flagging tape. Digital files and GPS coordinates of proposed lots are available upon request.

2. SCOPE OF WORK

The report will address the following factors that might affect each lot’s suitability for installation of an underground on-site septic system:

- size of lot;
- slope of the lot;
- type and permeability of the soil, and measurement of the soil’s capacity to absorb liquid;
- depth to ground water table;
- presence and depth of bedrock, where encountered;
- recommended location where septic tank and disposal field may be installed, considering distances from buildings, watercourses, wells, roads, property lines, driveways, water service lines, etc.; and
- site up-grading specifications and cost estimate if lot is determined to require upgrading.

NOTES:

(i) For each lot, three (3) percolation test pits are required; six (6) metres apart, equidistant from each other in the general area where the potential disposal system would be installed.

(ii) Walkovers of all lots are required, with terrain that may be unsuitable for building or installation of septic systems noted and indicated on lot diagrams (i.e., surface water; wetland, steep slopes, bedrock).

(iii) Lots that do not have a minimum of 30.5 centimetres (1 foot) of suitable local soil as per the Private Sewage Disposal and Water Supply Standards (Service NL, January 2006), or lots for which percolation testing cannot be completed, are to be noted as being incapable of being upgraded.
(iv) Changes may be recommended to the shape of any lot in order to improve its capability to support an on-site septic system. Any such recommendation shall be discussed with the Project Manager, Mr. John Howley, prior to the submission of the Final Report. The depiction of lots in the Final Report shall show the revised shape of any reconfigured lots.

3. SCHEDULING

3.1 Commencement Date
The commencement date of the contract shall be July 25, 2016. The successful bidder/bidding firm (the “consultant”) must arrange for a site visit with Land Management Division staff prior to commencing field work.

3.2 Completion Date
A draft version of the Final Report shall be submitted to the Land Management Division no later than 4:00pm NDT, Friday, August 19, 2016 (the “Completion Date”). Failure to meet that deadline will result in the imposition of a penalty equal to 1% of the total contract price for each working day after the Completion Date that the Final Report is delayed, up to a total of 10% of the total contract price. The Completion Date may be extended in writing by the Land Management Division, in its sole discretion, for reasonable unforeseen delays. Bidders/bidding firms are advised that commitments arising from other projects undertaken by them will not be accepted as reasonable grounds for delay in submission of the Final Report, or the Revised Final Report.

Following submission, the Final Report will be reviewed by the Land Management Division and Service NL. If any revisions are deemed necessary, the consultant shall be notified in writing by the Land Management Division and the consultant shall provide a revised Final Report satisfactory to the Land Management Division within seven (7) calendar days (by 4:00PM, NDT) from the date of notification of any necessary revisions. Failure to provide a revised Final Report within seven (7) calendar days (by 4:00PM, NDT) from the date of notification of any necessary revisions will result in the imposition of a penalty equal to 1% of the total contract price for each working day, beyond seven (7) calendar days after notification, that the revised Final Report is delayed, up to a total of 10% of the total contract price.

4. REPORTING PROCEDURE

4.1 The report must be submitted in both printed and digital versions. The digital report shall include all text, maps and diagrams combined within one document in PDF format. The report shall meet professional standards in layout and appearance acceptable to the Land Management Division. Diagrams shall not be hand drawn. The report will be posted on the Department of Municipal Affairs’ web site for public viewing when the Public Draw for the recreational cottage lots is held.
4.2 The report may provide general commentary on lots with common features (i.e. where a group of lots may have similar soil properties, for example). However, all relevant information pertaining to each lot must be separate for each lot. This is so a report for each lot, with individual lot diagrams, can be isolated from the full document, comprising all required evaluation information for that lot. For further detail regarding the format of the report, bidders/bidding firms are asked to contact the Project Manager, Mr. John Howley.

4.3 The draft report shall be reviewed by Land Management Division in consultation with Environmental Health staff of Service NL. If further work is deemed necessary, the consultant shall be required to perform the necessary work to ensure the report is satisfactory and meets specifications of the project deliverables. See also 3.2 above.

5. QUALIFICATIONS

Bidders/bidding firms shall have personnel who hold a certificate as a Professional Engineer, Certified Engineering Technologist, Certified Engineering Technician, Certified Public Health Inspector or approved Septic System Designer/Installer, as required under the Sanitation Regulations of the Health and Community Services Act. Bids must name personnel who will be evaluating the lots and provide their certifications.

6. WORKPLACE HEALTH AND SAFETY

Bidders/bidding firms shall protect all his or her employees against loss or injury in accordance with the Workplace Health, Safety and Compensation Act of the Province of Newfoundland and Labrador, and shall upon request, produce certificates to show that such coverage is carried.

7. BIDS

Bidders/bidding firms are advised to conduct preliminary site inspections prior to submitting their bid. Site visits with Land Management Division staff may be arranged prior the date of the deadline for the submission of bids if requested. Bids shall clearly identify the total price inclusive of all related costs, with and without HST.

8. DEADLINE FOR BIDS

Bids may be hand-delivered, mailed or sent by fax or e-mail. Bids must be clearly marked “Salmonier Cottage Lot Evaluations Contract # 001-16-E” and received at the Land Management Division no later than 11:00 AM, NDT, Friday, July 22, 2016. No bid submitted by any means will be accepted after the specified deadline. Public bid opening will be at 11:15 AM, NDT, Friday, July 22, 2016.

The time and date printed on the bid pages sent by fax machine or the received time recorded on bids sent by e-mail shall be considered the time of receipt. It is the responsibility of the bidder/bidding firm to ensure that bids submitted by any means have been received by the Land Management Division. It is strongly advised that bidders/bidding firms call to confirm their bid has been received.
Note: The lowest, or any, bid need not necessarily be accepted by the Land Management Division. The contract may not be awarded if bids exceed budgetary estimates.

Submit bids to:

Department of Municipal Affairs
Lands Branch
Land Management Division
Howley Building, 85 Higgins Line
P.O. Box 8700
St. John’s, NL A1B 4J6

Tel: (709) 729-3227 Fax: (709) 729-3923

jhowley@gov.nl.ca