Dear [Redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: MIGA/38/2015]

On June 28, 2015, the Department of Municipal and Intergovernmental Affairs received your request for access to the following records/information:

"Below is a statement from the Minutes of the Council of Portugal Cove-St. Philip’s of June 2, 2015.

"3. 2014-2017 MYCW W&S project kick-off meeting Contract is being reviewed by the Dept. of Municipal Affairs."

I requested more information on this from the Town of PCSP but was not successful. I am requesting copy of contract, list of w/s projects being considered, information on time lines and other pertinent information"

Please accept my apologies for the delay in response to your application, which occurred as a result of an oversight on my part. I am pleased to inform you that a decision has been made to provide access the requested information / records. In accordance with your request, the records being provided are outlined below:

- Attachment 1 – Copy of a signed Project Management Consultant Agreement between the Town of Portugal Cove St. Phillips and Vigilant Management Inc. Please note that the contract was signed this week and was sent to us by the Town signed so that we could provide you with a copy of the signed document. The signed document is also available at the Town office.
- Attachment 2 – Letter from the Minister authorizing the Town’s 2014-17 Multi-Year Capital Works (MYCW) Program

With regards to your request for other pertinent information, we are also including:
- Attachment 3 – Letter of May 16, 2014 from the Minister authorizing the MYCW program.
- Attachment 4 – Copy of the signed Multi-Year Capital Works Agreement between the department and the Town.
Attachment 5 - Letter from the Minister to Vigilant Management Inc. approving them to proceed with a public tender call for Project No. 17-MYC-15-00002.

Please note that the proposed project timelines are set out in Attachment 1 – the Project Management Consultant Agreement.

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. 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 Access to Information and Protection of Privacy 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 Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

Again, I apologize for the delay. If you have any further questions, please feel free to contact me by telephone at 729-2787 or by e-mail at tarakelly@gov.nl.ca.

Sincerely,

Tara Kelly
Director / ATIPP Coordinator
STANDARD FORM OF AGREEMENT
BETWEEN CLIENT AND PROJECT
MANAGEMENT CONSULTANT

SKINNER'S ROAD WATER SERVICING
WATER AND SEWER SERVICES – DROVER HEIGHTS,
INDIAN MEAL LINE, & FRANKLIN PLACE

Vigilant Management Inc.

Project No.: 17-MYCW-15-002,
Funding Program: MYCW2014
AGREEMENT

THIS AGREEMENT made at the Town of Portugal Cove-St. Philips, in the Province of Newfoundland and Labrador, on this 24th day of June, 2015.

BETWEEN:

TOWN OF PORTUGAL COVE-ST. PHILIPS
(“The Client”)

AND:

VIGILANT MANAGEMENT INC.
(“The Project Management Consultant”)

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

I. Definitions

In addition to the terms defined in the Special Terms and Conditions attached as Schedule “B”, (if any), and 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

b. “Representatives” mean directors, officers, employees, consultants, sub-consultants agents, advisors or partners.

II. The Project Management Consultant’s Work

The Project Management Consultant shall do all things necessary to fulfill and carry out all of the obligations of the Project Management Consultant as set out in the Contract Documents (the “Work”).
III. **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 or 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.

IV. **Representations and Warranties**

The Project Management Consultant hereby represents and warrants that every fact stated or represented by the Project Management Consultant or its Representatives to the Client in connection with any proposal made by the Project Management 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.

V. **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.

VI. **Start and Completion Date**

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

Start Date: June 3, 2015

Completion Date: September 31, 2016

VII. **Effective Date**

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

VIII. **Paragraph Numbering**

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

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.

Town of Portugal Cove-St. Phillip's

Mark Tucker
Signing Officer

Judy A. Squires, CMC
Town Clerk
Town of Portugal Cove - St. Philip's

Mayor

Date

August 4, 2015

Witness or Signing Officer

August 4, 2015

Vigilant Management Inc.

Signer

Terry Hussein
Witness or Signing Officer

August 3, 2015

Date

August 3, 2015
# Schedule "A"

## Scope of Work

Between Project Management

**Consultant and Client Index**

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<tr>
<td>1.1</td>
<td>Additional Services: means Consulting Services provided that are additional to the Basic Services as set out in Schedules I and II.</td>
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<td>1.2</td>
<td>Authorities Having Jurisdiction (AHJ): means a person or persons representing these agencies that have authority to provide plan approvals and permits for the purpose of constructing the project.</td>
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<td>1.3</td>
<td>Basic Services: means Consulting Services as outlined in the scope of work defined in Schedules I and II.</td>
</tr>
<tr>
<td>1.4</td>
<td>Construction Budget Forecast: means the Client's estimated Construction Cost including contingencies for cost increases and taxes (HST).</td>
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<tr>
<td>1.5</td>
<td>Contract: means an agreement between the Client and the Contractor for the provision of labour, materials and equipment for the construction of the project or part of the project by a Contractor.</td>
</tr>
<tr>
<td>1.6</td>
<td>Contractor: means a person, firm, or corporation contracting with the Client to provide labour, materials and equipment for the construction of the Project or part of the Project.</td>
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<td>1.7</td>
<td>Cost Control Services: means a service to advise and monitor on Project Budget and Construction Budget Forecasts.</td>
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<tr>
<td>1.8</td>
<td>Master Specification: means Municipal Water, Sewer and Road Specification (a manual developed by the Department of Municipal Affairs) or Master Specification Guide for Publicly Funded Buildings (a specification developed by the Department of Transportation and Works and prepared for the purpose of presenting standards, guidelines, instructions and specifications to use in the delivery of publicly funded projects). Unless otherwise agreed between the parties, the version published on the date of the contract shall be the version applicable to the contract.</td>
</tr>
<tr>
<td>1.9</td>
<td>Partial Services: means Reduced Basic Services as negotiated by the Client with the Project Management Consultant.</td>
</tr>
<tr>
<td>1.10</td>
<td>Program Advisory Services: means Consulting Services provided by the Project Management Consultant prior to start of Basic Services.</td>
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</tbody>
</table>
1.11 Project Budget Forecast: means the Client’s estimated total expenditure for the project. It includes the construction budget forecast and all other costs to the Client for the project such as, but not limited to, professional fees, taxes (HST) and acquisition costs.

1.12 Sub-Consultant: means Registered Professional Engineer, Architect or other specialist engaged by the Project Management Consultant in connection with the project.

1.13 Engineering Consultant: means the Consulting Firm engaged to conduct the Design Services necessary for completion of the project. This Consultant will be managed by the Project Management Consultant but will retain all technical responsibility for the project.

**PART 2 RESPONSIBILITIES**

2.1 Project Management Consultant

.1 The Project Management Consultant’s services consist of Basic Services and Additional Services which may be required to perform the Work as outlined in Schedules I, II and III.

.2 The Project Management Consultant’s services as provided for under and pursuant to this Agreement at and during all phases of the work shall include the coordination of the Engineering Consultant during the Design Phase and Contractor during the Construction Phase of the Project. The Project Management Consultant shall prepare and submit contract documents in accordance with the Client’s requirements, as outlined in Schedules I and IV.

.3 During the tendering and contract award phase, the Project Management Consultant may advise and assist the Client in obtaining bids and awarding construction contracts. The Department of Municipal Affairs’ tendering and contract procedures and administrative practices will be followed in the performance of this phase.

.4 The Client may require the Project Management Consultant to provide construction administration services. When required the Project Management Consultant’s service shall be based upon the scope of work as outlined in Schedule I of this agreement, as agreed between the Client and the Project Management Consultant.

.5 The Project Management Consultant engaged in a project shall ensure, where it is reasonably practicable for him or her to do so, that employers, workers and self-employed persons performing work in respect of that project comply with the *Occupational Health and Safety Act RSNL 1990 c O-3* and regulations.

.6 Cost Control Services are included under the scope of Basic Services to be provided by the Project Management Consultant.

.7 The following schedules apply:

- Schedule I - Project Description
- Schedule II - Basic and Other Additional Services Fees
- Schedule III - Additional Reimbursable Allowances
- Schedule IV - Project Schedule
- Schedule V - Other General Requirements
### 2.2 CLIENT'S RESPONSIBILITIES

1. The Client shall give due consideration to documentation submitted by the Project Management Consultant and, whenever action is necessary, the Client shall inform the Project Management Consultant of the Client's decisions, in a reasonable and timely manner.

2. The Client shall authorize persons to act on behalf of the Client with respect to delivery and administration of the project.

3. If the Client observes or otherwise becomes aware of any fault or defect in the project or any nonconformity with the requirements of the Contract, the Project Management Consultant shall be so notified in writing.

4. The Client may provide information regarding the project including: a program, which shall set forth the Client’s spatial and functional requirements and relationships. The Project Management Consultant is responsible for facilitating information requests from the Engineering Consultant that are required to prepare the design and contract documents.

5. The Client will provide the Project Management Consultant with a Project Budget Forecast.

6. The Client shall reimburse the Project Management Consultant for procuring information which the Engineering Consultant requires for the provision of services necessary to carry out the preparation of design and/or contract documentation when the information is not available upon request from the Client such as site surveys, and hazardous material surveys.

7. The Client will reimburse the Project Management Consultant for other specialist consultants that may be required to carry out quality control services during the project, subject to prior approval of scope of the work and an agreement on the fee or fees payable for the same by the Client.
PART 3  GENERAL REQUIREMENTS

3.1  STAFF

.1 The Project Management Consultant will provide the Client with a list of its employees and those of its Sub-Consultants who will be assigned to the project. The list will include the classification of each employee and the hourly rate to be charged for additional services rendered. The Project Management Consultant will obtain written prior approval of Client for any replacement of key employees, changes in the numbers of key employees or changes to rates of key employees assigned to the project.

3.2  SCHEDULE

.1 The Project Management Consultant will review and supervise the project schedule for the performance of the Engineering Consultant and Contractor on the project."

3.3  COST CONTROL

.1 The Project Management Consultant shall provide Cost Control and Reporting Services to the Client in accordance with the requirements of the Department of Municipal Affairs for project milestones and monthly project status reports.

.2 If at any time the Project Management Consultant considers its estimates indicate costs which exceed the Project or Construction Budget Forecast, the Project Management Consultant will immediately advise the Client.

3.4  CHANGES AND ADJUSTMENT

.1 Changes and adjustment to the fees payable under this Agreement will be only considered if there is a material change in the level of services agreed to be provided or in the scope of the Project, or there is a material delay in the performance of the work required under the Contract.

.2 The amounts due to the Project Management Consultant arising from a material change to the Agreement will be determined by a negotiated fixed amount, or failing such negotiation, the actual cost as determined by level of effort incurred times the agreed hourly rate, plus receipted expenses.

.3 Any increases in the fees payable caused by a material change or other changes shall be communicated by the Project Management Consultant in writing to the Client prior to incurring such costs to permit the Client to mitigate the amount of increased costs.

3.5  PROJECT MANAGEMENT CONSULTANT ACTIONS AND DECISIONS

.1 The Project Management Consultant acknowledges that adequate discussion has taken place regarding the Work with the Client and that the Project Management Consultant has access to sufficient information to undertake the services contracted for within the Project Budget.

.2 The Project Management Consultant and the Client agrees to act promptly and diligently on all matters within their respective direction and control requiring an action or decision impacting the project management of the project.
If the Project Management Consultant does not promptly and diligently comply with or fails to meet the requirements of the Client, the Client may without prejudice to any other right or remedy the Client may have by giving the Project Management Consultant written notice, and without prejudice to the Client's rights at law or elsewhere in this Agreement, take all such action deemed necessary for the prompt and economical completion of the project, and/or terminate the contract.

3.6 INSURANCE COVERAGE

.1 The Project Management Consultant shall supply written proof of:

.1 Professional liability insurance coverage equal or greater than $250,000 per claim, $500,000 in aggregate for projects under $2 million construction value or $500,000 per claim, $1,000,000 aggregate for projects over $2 million. The Project Management Consultant shall be fully responsible for all amounts deducted from this value by the Project Management Consultant's Insurer. This Insurance shall remain in effect until the expiry of the general contractor's one year warranty on the project.

.2 Commercial liability insurance acceptable to the Client with a minimum limit of $1,000,000.

.2 The Insurer shall be an insurance company licensed to do business in the Province of Newfoundland & Labrador.

PART 4 BASIS OF PAYMENT SCHEDULE

4.1 The Client will pay for Program Advisory Services on the basis of an agreed fixed fee or at agreed per diem rates on the basis of approved level of effort.

4.2 The Client will pay for all other services at an agreed fixed fee on the basis of approved level of effort. The Client's Project Budget Forecast will be made available to the Project Management Consultant to assist in the evaluation of the level of effort required.

4.3 The fee for Basic Services and Additional Services will be apportioned to the phases of service as outlined in Schedule II - "Basic Services and Other Additional Services' Fees".

4.4 The fee for Basic Services will also include the management and co-ordination by the Project Management Consultant and specialist consulting services as may be requested by the Client. Compensation for specialist or other consulting services will be on the basis of an agreed fixed fee for the level of effort required.

4.5 The Client will pay for the reimbursement of the Project Management Consultant's expenses associated with the project at cost as per Schedule "C". Meals, private vehicle usage, private lodgings and other incidental expenses are to be paid on the basis of Government Basic Rates. These rates are HST inclusive and are determined as of the date the expenses are incurred.

4.6 The Client will pay for Additional Reimbursable Allowances as provided for in Schedule III - "Additional Reimbursable Allowances". These allowances require supporting documents to be provided for payment.
SCHEDULE I

PROJECT DESCRIPTION

Provide description of project including:

Summary:

Vigilant Management Inc. will act as Project Managers on behalf of the Town of Portugal Cove-St. Phillip's for the Water and Sewer Project being conducted.

Goal:

To plan, execute, control, and close the project in accordance with the Project Management Plan.

Scope of Work:

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

- Develop Project Management Plan
- Include scope, time, cost, and quality
- Plan quality assurance and quality control, and include as milestones on Gantt Chart
- Conduct procurement for Engineering Consultant
- Engineering Consultant to conduct quality assurance and quality control
- PM to facilitate and oversee contractor procurement through the Engineering Consultant
- Monitor all contractors on behalf of owner against the PM Plan
- Plan and conduct project closeout

Deliverables:

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

- RFP For Engineering Consultant, draft and then final
- Project Status Report, monthly
- Project Issues Log, ongoing
- General Milestones
- Inspection Milestones
- Quality assurance inspection report from Engineering Consultant, with recommendation for acceptances
- Recommendation for Engineering Consultant
- Recommendation for contract closeout activities
## SCHEDULE II
(Water, Sewer, and Municipal Roads)
**BASIC AND OTHER ADDITIONAL SERVICES FEES**

- **Basic Services**
  - Project Initiation $5,840.00
  - Engineering Consultant Management $13,855.00
  - Tendering & Tender Support $500.00
  - Construction Administration $18,465.00

- Project Management Consultant Project Expenses for Above Services $0

**TOTAL BASIC AND OTHER SERVICE FEES** $38,660.00

**TOTAL ADDITIONAL REIMBURSABLE ALLOWANCE**
(From Schedule III) $0

**TOTAL SERVICE FEE (Less HST)** $38,660.00
(Total Schedules II + III)

**HST** $5,025.00

**TOTAL SERVICE FEE (Including HST)** $43,685.80
SCHEDULE III
(Water, Sewer, and Municipal Roads)
ADDITIONAL REIMBURSABLE ALLOWANCES

List below allowances for specific project expenses not included in Schedule II.

- Site Surveys $0
- Geotechnical Investigations $0
- Materials Testing $0
  - Asphalt Extractions $0
  - Concrete Testing $0
  - Compaction Testing $0
  - Enter Description $0
  - Enter Description $0
- Water Main Leakage Detection $0
- Sewer Main Infiltration Detection $0
- Enter Description $0
- Enter Description $0

TOTAL ADDITIONAL REIMBURSABLE ALLOWANCES $0
## SCHEDULE II
(Buildings & Treatment Facilities)

### BASIC AND OTHER ADDITIONAL SERVICES FEES

- Programming Advisory Services $ 
- Basic Services
  - Concept Design $ 
  - Design Development $ 
  - Contract Documents $ 
  - Proposal/Tendering & Contract Award $ 
  - Contract Administration $ 
- Project Completion Phase and Project Record Drawings $ 
- Other Additional Services:
  - Commissioning $ 
    - Enter Description $ 
    - Enter Description $ 
  - Resident Services during Construction $ 
    - Enter Description $ 
    - Enter Description $ 
  - Design Services - Segregated Construction Contracts $ 
  - Construction Management - Multiple Contracts $ 
- Project Management Consultant Project Expenses for Above Services $ 

#### TOTAL BASIC AND OTHER SERVICE FEES $ 

#### TOTAL ADDITIONAL REIMBURSABLE ALLOWANCE (From Schedule III) $ 

#### TOTAL SERVICE FEE (Less HST) $ 
(Total Schedules II + III) 

HST $ 

#### TOTAL SERVICE FEE (Including HST) $ 

SCHEDULE III
(Buildings & Treatment Facilities)
ADDITIONAL REIMBURSABLE ALLOWANCES

List below allowances for specific project expenses not included in Schedule II.

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Surveys</td>
<td>$</td>
</tr>
<tr>
<td>Geotechnical Investigations</td>
<td>$</td>
</tr>
<tr>
<td>Materials Testing</td>
<td>$</td>
</tr>
<tr>
<td>Water Main Leakage Detection</td>
<td>$</td>
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<tr>
<td>Sewer Main Infiltration Detection</td>
<td>$</td>
</tr>
<tr>
<td>Treatment Process Piloting</td>
<td>$</td>
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<tr>
<td>Enter Description</td>
<td>$</td>
</tr>
<tr>
<td>Enter Description</td>
<td>$</td>
</tr>
</tbody>
</table>

TOTAL ADDITIONAL REIMBURSABLE ALLOWANCES  $
SCHEDULE IV
PROJECT SCHEDULE

Enter Time/Milestone Schedule for Project including Consultant Services
SCHEDULE V
OTHER GENERAL REQUIREMENTS

Attach the following:

- Organization Chart
SCHEDULE “B”
SPECIAL TERMS AND CONDITIONS (as necessary)

All Special Terms and Conditions must be reviewed by both the Department of Municipal Affairs and Department of Justice, Government of Newfoundland and Labrador.

Enter Special Terms and Conditions

1. No Special Terms and Conditions
SCHEDULE “C”

GENERAL TERMS AND CONDITIONS

Article - 1. 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 either Option 1, 2 or 3 below.

Payment Option #1 □ Selected Option

Subject to Article 1.3, upon presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Project Management Consultant, for the satisfactory performance of the Work, insert text dollar value ($ ) (plus HST) in accordance with the following payment schedule:

(i) Schedule II

Payment Option #2 □ Selected Option

Subject to Article 1.3, upon presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Project Management 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) Project Director - $145/hour
(ii) Project Manager - $125/hour
(iii) Junior Project Manager - $100/hour
(iv) Operations Coordinator - $75/hour

Payment Option #3 □

Subject to Article 1.3, upon the satisfactory completion of the Work and the presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Project Management Consultant, $ , the absolute limit on Cost of Services (plus HST).

1.2 Reimbursement of Expenses

It is agreed and understood that reimbursements for the Project Management Consultant’s expenses pursuant to this Agreement shall be made in accordance with either Option A and/or B or C below.

Reimbursement Option A □
The Client shall only be responsible for the following mutually agreed expenses to be incurred by the Project Management Consultant; such as travel, meals, accommodations, printing and duplicating, courier, long distance telephone, cell phones, facsimile charges, etc. at the agreed fixed fee in the amount of $ . This amount must be included in Schedule II on the line entitled "Project Management Consultant Project Expenses for Above Services".

(i) Enter Specific Reimbursible Items

Reimbursement Option B  □ Selected Option

The Client shall only be responsible for the following reimbursable expenses, payable at cost, provided the Project Management Consultant can demonstrate to the Client that such expenses were incurred in relation to the Work, and that documentation, satisfactory to the Client, is provided in support of the reimbursable expense claimed and is attached to the applicable invoice, including for example, originals of supporting receipts, invoices or statements issued by non-parties to this Agreement. This amount is estimated at $ 0 and must be included in Schedule II on the line entitled "Project Management Consultant Project Expenses for Above Services".

   i) Enter Specific Reimbursible Items

Reimbursement Option C  □ Selected Option

The Client shall not be responsible for any expenses incurred by the Project Management Consultant, including, without limitation, out of pocket expenses such as travel, meals, accommodations, legal advice, support staff, printing and duplicating, courier, long distance telephone and/or facsimile charges, without the prior written approval of the Client.

All claims submitted for reimbursable expenses in accordance with this Article 1.2 shall be reimbursed at rates not to exceed those established by Treasury Board pursuant to the guidelines and policies of the Client even if such rates are lower than the actual costs incurred by the Project Management Consultant.

1.3 Payment General

(a) Regardless of the payment option selected in Article 1.1 and/or 1.2, the Parties agree and confirm that total amounts payable for the Work shall not exceed a monetary ceiling of forty three thousand six hundred and eighty five ($43,685.80).
(b) The Project Management Consultant shall remain obligated to complete the Work notwithstanding that the actual costs of the Project Management 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 1.3(a).

(c) The Parties agree and confirm that as set out in section 25(6) of the Financial Administration Act, RSNL 1990 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 60 calendar days of receipt of a properly documented invoice. The Client shall within thirty (30) days of the execution of this Agreement should the Project Management Consultant request the same provide direction to the Project Management Consultant as to what constitutes a properly documented invoice.

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

(f) The Project Management Consultant shall conform to any request that may be made by the Client to alter the form of invoice customarily used by the Project Management Consultant as may be reasonably required for the purposes of the Client's internal accounting systems. The Project Management 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 Project Management Consultant which may arise from work, services or expenses incurred to remedy errors or omissions in the Work for which the Project Management Consultant is responsible.

(h) The Project Management Consultant shall submit invoices to the Client:
Chris Milley
Town of Portugal Cove-St. Phillip’s
1119 Thorburn Road
Portugal Cove-St. Phillip’s, NL
A1M 1T6

Article - 2. INFORMATION SUPPLIED BY THE CLIENT

2.1 The Client will furnish to the Project Management 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 Project Management Consultant shall review the information for accuracy and applicability.

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

Article - 3. CONFIDENTIALITY, MATERIALS AND COPYRIGHT

3.1 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 Project Management Consultant, the Project Management Consultant's 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 Project Management Consultant, the Project Management Consultant's 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, SNL 2002 cA-1.1, 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

for any individual, which is, directly or indirectly, disclosed to or collected by the Project Management Consultant, the Project Management Consultant's
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 Project Management Consultant, the Project Management Consultant's 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 Project Management Consultant was or thereafter became part of the public domain through no act or omission of the Project Management Consultant or the Project Management Consultant's Representatives; or

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

3.2 The Project Management Consultant shall treat all Confidential Information acquired by the Project Management 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 Project Management Consultant shall give the Client prompt notice of the requirement upon becoming aware that such disclosure is required. Where circumstances do not permit the Project Management Consultant to provide such notice prior to disclosure, the Project Management Consultant shall provide such notice to the Client immediately after the required disclosure.

3.3 The Project Management 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.

3.4 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 Project Management 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 Client and the contents thereof are privileged and confidential. Nothing in this Agreement shall give the Project Management 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 Project Management Consultant pursuant to the terms of this Agreement. The Project Management Consultant acknowledges that the Client's right to this information shall at all times be paramount to any rights of the Project Management Consultant, at law or in equity, and that the Project Management 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 Project
3.5 The Project Management 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 Project Management Consultant, the Project Management Consultant’s employees, servants and/or agents, and shall certify the destruction of same to the Client. However, nothing in this Agreement shall preclude the Project Management Consultant’s privilege to retain copies of documents provided to it or prepared by it in connection with the Work, provided such documents are kept in a secure manner, are used by the Project Management Consultant solely for the purposes of defending itself against claims arising from the Work of the Contract, and that the aforesaid documentation is destroyed or returned to the Client at the end of all limitation periods for commencing any action in connection with the Work or upon the conclusion or settlement with finality of any claim or action with respect to the Work.

3.6 The Project Management Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Project Management Consultant, the Project Management Consultant’s 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, the Management of Information Act, SNL 2005, cM-1.01, and the Privacy Act, RSNI1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Project Management Consultant’s operation. The Project Management 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 Project Management Consultant, and the Project Management Consultant’s employees, servants and/or agents.

3.7 The Project Management Consultant shall ensure that it, and the Project Management Consultant’s 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 Project Management Consultant employs to avoid disclosure or dissemination of the Project Management Consultant’s own confidential information, to prevent the disclosure of any of the Confidential Information to any third party, or to any of the Project Management Consultant’s employees, servants or agents other than those who are required to have access to the same 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 Project Management Consultant comply with all policies, standards and safeguards established under this Article;
(d) advise the Client of any changes in the Project Management Consultant’s 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 Project Management 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.

3.8 The Project Management Consultant shall only disclose Confidential Information to persons other than the Project Management Consultant’s 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”.

3.9 The Project Management 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 Project Management 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 Project Management Consultant; 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;

(b) 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;

(c) promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of Confidential Information; and

(d) 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 Department of Justice website at: http://www.justice.gov.nl.ca/ust/info/privacybreach.html

Article - 4. EMPLOYEES OF THE PROJECT MANAGEMENT CONSULTANT

4.1 The Project Management Consultant shall provide employees who are competent in their field of specialization. The Client will have the right to have the Project Management 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 Project Management 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 concerned was involved and may refuse to approve payment for such Work.

4.2 The Project Management 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 - 5. ACCESS TO FACILITIES

5.1 The Client agrees to provide, access to the project site for the Project Management Consultant to perform the Work during Client office hours.

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

Article - 6. RECORDS AND AUDIT

6.1 The Project Management 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.

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

Article - 7. TERMINATION

7.1 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 Project Management Consultant.

7.2 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.

7.3 Where this Agreement is terminated prior to the mutually agreed upon completion date, the Project Management 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 Project Management 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 - 8. NOTICES
8.1 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:

Chris Milley, Town Manager
1119 Thorburn Road
Portugal Cove-St. Phillip's, NL
A1M 1T6
Phone: (709) 895-8000 ext. 262
Fax: (709) 895-3780
Email: chris.milley@pcsp.ca

For the Project Management Consultant:

Terry Hussey, Chief Executive Officer
P.O. Box 50064
Paradise, NL
A1L 0J2
Phone: (709) 782-5950
Fax: (709) 782-5951

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 telecopier or other means of electronic communication; and
(c) Six (6) days after delivery to Canada Post Corporation where the postal service is used.

Article 9. LIABILITY

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

9.2 The Client shall not be liable for, and the Project Management 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 negligence or default of the Project Management Consultant under this Agreement, including the negligence or default of any Sub-Consultant chosen by the Project Management Consultant. Except to the extent that such losses, costs, charges or expenses as
are referenced in this clause are caused by the negligence or default of the Client under this Agreement, the Project Management Consultant shall defend any and all such actions and pay all legal charges, costs and other expenses arising therefrom. Where the Project Management Consultant fails to defend such an action, 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 Project Management Consultant.

Article - 10. COMPLIANCE WITH LAW

10.1 In respect of any work within the Province of Newfoundland and Labrador connected with or arising from this Agreement, the Project Management 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.

10.2 The Project Management Consultant shall ensure that the Project Management Consultant and its Representatives comply with all requirements of any governing federal, provincial or municipal legislation, by-laws or regulations applicable to the Project Management Consultant or the Project Management Consultant’s Representatives in the performance of the Work.
Article - 11. ARBITRATION

11.1 In the case of a dispute arising between the Client and the Project Management 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.

11.2 In the case of a dispute arising between the Client and the Project Management 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 request third party mediation thereof.

11.3 Should the parties not agree to third party mediation or the matter in dispute between the parties not be resolved by mediation, then in the case of a dispute arising between the Client and the Project Management Consultant as to their respective rights and obligations under this Agreement, (that has not been resolved pursuant to Articles 11.1 and 11.2), either party may give the other notice of such dispute and 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, RSNL 1990 cA-14, including such provisions for the appointment of arbitrators.

Article - 12. LAWS GOVERNING

12.1 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 - 13. USE OF WORK

13.1 The Client shall have the right to use the Work or variations thereof in other operations of the Client.

13.2 With respect to 13.1 the Project Management Consultant’s liability to the Client for and in respect of the Work is solely limited to the project described in this Agreement.

Article - 14. CONFLICT OF INTEREST

14.1 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.

14.2 The Project Management Consultant and the Project Management Consultant’s Representatives:

(a) shall conduct all duties related to this Agreement with impartiality;
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 - 15. SUB-CONTRACTORS

15.1 The Project Management Consultant shall not sub-contract all or a portion of the Work without the prior written approval of the Client which consent will not be unreasonably withheld.

15.2 The entry into any sub-contract shall not relieve the Project Management Consultant of any of its obligations under the terms of this Agreement.

Article - 16. GENERAL

16.1 Articles 3 and 9 of this Agreement shall survive the termination or expiration of this Agreement.

16.2 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.

16.3 Time shall be of the essence of this Agreement.

16.4 The failure of the Client to insist upon or enforce in any instance strict performance by the Project Management 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.

16.5 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.

16.6 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.

16.7 This Agreement shall enure to the benefit of and be binding upon the Parties hereto, their respective heirs, legal representatives, successors and assigns.

16.8 The Project Management Consultant shall not assign this Agreement in whole or in part to any third party without the prior written approval of the Client.
SCHEDULE D
Protocols for Security of Government Information on Information Technology Assets of Contractors

The Project Management Consultant should confirm with the Client and Department of Municipal Affairs whether the Project Management Consultant will be required to use information technology resources, including computers, of the Client or the Government of Newfoundland and Labrador in the conduct of the work under the Contract. The following requirements apply where the Project Management Consultant will not be using such assets, but will instead have access to confidential information (including personal information) ("Confidential Information") received from the Client or Government of Newfoundland and Labrador ("Government") and will be storing, manipulating or accessing that Confidential Information on the Project Management 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, 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 authorized by the Project Management Consultant's Contract or otherwise, the Project Management Consultant is not permitted to attach non-government computers or other information technology systems to any Client or Government network.

- The Project Management Consultant is 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.

- The Project Management Consultant is not permitted to use any Peer to Peer file sharing program (e.g., Limewire, etc.) or chat program (e.g., 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.

- Where a Project Management Consultant will be granted access to the Client or Government computer network during the course of the work, in addition to the requirements noted above, the Project Management Consultant shall not:
  - Share personal computer drives or folders on a computer accessing the network; or
  - 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 Project Management Consultant and all employees, servants and/or agents or permitted Sub-Consultants of the Project Management Consultant, and it is the responsibility of the Project Management Consultant to ensure that all such employees, servants and/or agents or permitted Sub-Consultants are aware of these restrictions and are in compliance herewith.

- For the purposes of Schedule D, routine exchanges of design and construction information between the Client, the Project Management Consultant and the Project Management Consultant's Sub-Consultants that is of a non-confidential nature need not be encrypted.
Attachment A

Vigilant Management Inc.

Project Team Organizational Chart
Vigilant Management

Project Team Organizational Chart

Sr. Civil Engineer
Grant Horwood, P.Eng

Project Manager
Tina O'Dea, P.Eng

Junior Project Manager
Mark Canning, EIT

Office Coordinator
Katherine Alexander
Mayor Moses Tucker  
Town of Portugal Cove – St. Philips  
1119 Thorburn Road  
Portugal Cove – St. Philips, NL A1M 1T6

Dear Mayor Tucker:

Re: 2014-2017 Multi Year Capital Works Program (MYCW)

I refer to previous correspondence dated May 16, 2014, authorizing the Town’s 2014-2017 MYCW program. Please note that the two projects outlined in the original Schedule A are now being combined under a single project number. As indicated in the revised Schedule A attached, both projects are being combined under project #17-MYCW-15-00002.

All other terms and conditions of the original funding letter dated May 16, 2014 remain.

Should you have any other questions regarding the above, please contact Mr. Dan Noseworthy, Regional Director for the Eastern Region, telephone number 729-7390.

Thank you for your co-operation.

Sincerely,

KEITH HUTCHINGS, MHA  
District of Ferryland  
Minister of Municipal and Intergovernmental Affairs

/jl

Enc.

cc: Hon. David Brazil, MHA
cc: Mr. Dale Kirby, MHA
cc: Mr. C. Mercer, P. Eng, ADM
cc: Mr. E. Khan, P. Eng.
cc: Mr. D. Noseworthy, Regional Director
cc: Ms. L. Evoy, Regional Manager
cc: Mr. I. Rehman, P. Eng., Regional Engineer

cc: Mr. H. Khan, P. Eng.
cc: Mr. K. Guest
cc: Mr. J. O’Leary
cc: Mr. D. Hickey
cc: Ms. L. Owens
cc: Mr. A. Askary
## Portugal Cove-St. Philip's
### 2014-2017 Multi Year

#### Schedule A - Revised July 2015

<table>
<thead>
<tr>
<th>Project</th>
<th>Project #</th>
<th>Total Funding</th>
<th>GST Rebate</th>
<th>Net Funding</th>
<th>Provincial Share</th>
<th>Municipal Share</th>
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<td>Water &amp; Sewer Servicing - Skinners Road, Drover Heights, Indian Meal Line, Franklyn Place</td>
<td>17-MYCW-15-00002</td>
<td>2,763,119</td>
<td>122,262</td>
<td>2,640,857</td>
<td>1,848,600</td>
<td>792,257</td>
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| Total | 2,763,119 | 122,262 | 2,640,857 | 1,848,600 | 792,257 |

7/30/2015
MAY 16 2014

Mayor Moses Tucker
Town of Portugal Cove-St. Philip's
1119 Thorburn Road
Portugal Cove – St. Philip's, NL A1M 1T6

Moses,

Dear Mayor Tucker:

Re: 2014-2017 Multi Year Capital Works Program

I refer to previous correspondence dated March 31, 2014, authorizing Provincial funding of $1,848,600, under the 2014-2017 Multi Year Capital Works Program. As per the Town’s recent request dated April 3, 2014, I am pleased to advise you that the Provincial Government has approved funding in support of the projects listed in the attached Schedule A. I am requesting that you do not disclose this approval for funding publicly until the Province has had an opportunity to officially announce the project, and its associated funding Agreement. This funding is based on a cost sharing arrangement of 70/30 Provincial/Municipal ratio, and on the condition that Council is willing and able to meet its share of the costs.

This funding has been approved subject to a number of requirements. These requirements in the form of the attached guidelines. (Appendix “A” of the Agreement), apply to both the municipality and its consultant. Please ensure that these guidelines are followed.

Council and its consultant should also pay particular attention to the items which outline the Department's project delivery timeline policy. This policy has been developed to ensure that capital works projects are implemented in an efficient and effective manner to achieve the maximum benefits for municipalities.

Council and its Consultant should also be aware that prior to the commencement of any work related to the project, an initial project meeting must be arranged with the Department's Eastern Regional Office. Arrangements for this meeting can be made by contacting Mr. Dan Noseworthy, Regional Director at 729-7390. In addition to the initial project meeting, Council’s consultant must have a signed Prime Consultant Agreement in place prior to the commencement of any work.

Council will be required to finance on an interim basis the GST rebate in order to pay final project costs on a timely basis. All interest related to this interim financing of the GST rebate will be the responsibility of Council.

In anticipation of Council’s acceptance of this funding, enclosed please find in duplicate an Agreement between the Department of Municipal and Intergovernmental Affairs and
the Town of Portugal Cove-St. Philip's, with respect to this project. Upon reviewing the Agreement, please arrange to have the two copies signed by the Mayor and Clerk, witnessed, and affixed with the seal of the Town. Council is also requested to provide the date whereby the Mayor and Clerk were authorized by a resolution in the Minute of Council to enter into this Agreement on behalf of Council. A copy of the Minute of Council is to be attached to each Agreement, and marked as Appendix “A”. These documents are to be returned to my office, whereby they will be signed, witnessed, and affixed with the seal of the Department. A signed copy will be forwarded to Council for its records.

Please advise my office of your choice for a prime consultant for this project. You may note that this is an opportunity for a proposal call for prime consultant services. The benefits of a proposal call include not only the elements of comparison among firms, but also the ability to avail of a range of expertise that may be best suited to this project. Of course, a Request for Proposals (RFP) provides evaluation criteria that include cost as a factor. If you choose to proceed with an RFP, staff from the Eastern Regional Office of this Department will be available to assist you in preparing the Terms of Reference.

Should you have any other questions regarding the above, please contact Mr. Dan Noseworthy, Regional Director for the Eastern Region, telephone number 729-7390.

Thank you for your co-operation.

Sincerely,

STEVE KENT
Minister of Municipal and Intergovernmental Affairs

/hp

Enc.

cc: Mr. Dale Kirby, MHA
cc: Mr. David Brazil, MHA
cc: Mr. C. Mercer, P. Eng, ADM
cc: Mr. C. Power, P. Eng
cc: Mr. Dan Noseworthy
cc: Mr. J. Dawe, Regional Engineer
cc: Mr. H. Khan, P. Eng.
c: Mr. H. Donnan
cc: Mr. J. O’Leary
cc: Mr. D. Hickey
cc: Ms. L. Owens
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<th>Municipal Share</th>
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<td>Skinners Road Water Servicing</td>
<td>17-MYCW-15-00002</td>
<td>448,795</td>
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<td>428,937</td>
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<td>17-MYCW-15-00003</td>
<td>2,314,324</td>
<td>102,404</td>
<td>2,211,920</td>
<td>1,548,344</td>
<td>663,576</td>
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</tbody>
</table>

| Total                           |               | 2,763,119     | 122,262    | 2,640,857   | 1,848,800        | 792,257        |
MULTI-YEAR CAPITAL WORKS AGREEMENT

This Agreement made this 24th day of June, 2014

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND, as represented by the Minister of Municipal and Intergovernmental Affairs (hereinafter referred to as the “Minister”) OF THE FIRST PART,

AND

THE TOWN OF PORTUGAL COVE-ST. PHILIP’S (hereinafter referred to as the “Council”) OF THE SECOND PART

WHEREAS The Minister and the Council have agreed to enter into a multi-year capital works agreement for the financing of the project(s) outlined in schedule A and the letter dated the 16th day of May, A.D., 2014, hereinafter referred to as the “works”, and have agreed to cost not in excess of $2,763,119 which amounts to 2,640,857 after the HST rebate calculation;

AND WHEREAS the Minister of Municipal and Intergovernmental Affairs has been authorized to negotiate an Agreement on behalf of the Province of Newfoundland;

AND WHEREAS the Mayor and Clerk of the Council have been authorized by a Resolution in the Minutes of Council dated the 20th day of May, A.D., 2014 (copy of which is attached hereto as Appendix “A” and forms part of this Agreement) to enter into this Agreement on behalf of the Council;
THIS AGREEMENT WITNESSETH that for and in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, and the sum of One Dollar ($1.00) now paid by each party hereto, one to the other, (the receipt and sufficiency of which are hereby acknowledged by the parties hereto), the Minister and the Council hereby agree as follows:

OBLIGATIONS OF THE MINISTER:

1. To make payment to the municipality seventy percentum (70%) of the eligible costs of the project as these costs are incurred and upon receipt of the required documentation.

OBLIGATIONS OF THE COUNCIL:

1. To arrange thirty percentum (30%) financing for the project through a bank or financial institution on the basis of an Approval to Borrow.

2. To ensure that a cumulative cost of projects included in Schedule A does not exceed the authorized funding of $2,763,119. All costs in excess of the approved funding will be one hundred percentum (100%) responsibility of the Council for payment. The costs to be covered by this funding, includes but is not limited to capital, HST and engineering.

3. To have the work completed in accordance with the Municipalities Act, 1999, c.M24, as amended, or any successor legislation, and the Public Tender Act, 1990 c.P45, as amended, or any successor legislation.

4. To indemnify and save harmless the Minister from and against all claims, demands, losses, damages, costs of any kind based upon any injury or death of a person or damage to or loss of property arising from any willful or negligent act, omission or delay on the part of the Council or its servants or agents in carrying out the project.

5. To have all work on the project concluded and final invoices submitted to the Department not later than March 31, 2018.

THE PARTIES FURTHER AGREE:

1. Subject to the prior written approval of the Minister, the works may be amended or substituted, provided the amendment or substitution does not exceed the approved funding set forth in this agreement.

2. Council will consent to a public announcement of the project by the Province. After official
by both parties, whichever is earlier, the project will be considered to be in the public
domain.

3. Time shall be of the essence with respect to all matters in this Agreement.

4. This Agreement is executed in duplicate originals and each duplicate shall be deemed an
original copy for all purposes.

5. The validity, interpretation and performance of this Agreement shall be governed by the laws
in force in the Province of Newfoundland & Labrador.

6. This Agreement shall ensure to the benefit of and be binding upon the parties and their
respective successors and assigns.

7. Any provision of this Agreement which is prohibited or unenforceable will be effective only
to the extent of such prohibition or unenforceability without invalidating the remaining
provisions hereof.

8. This Agreement together with the letter of approval, and the Multi-Year Capital Works
Project Guidelines attached hereto constitutes the entire Agreement between the parties with
respect to the matters dealt with herein. This Agreement may not be amended or modified in
any respect except by written instrument signed by the parties hereto.

9. Neither this Agreement nor any of the rights, benefits, duties and liabilities contained herein
may be assigned by either party without the prior written consent of the other party.
This Agreement has been executed on behalf of the Province by the Minister responsible for the Department of Municipal and Intergovernmental Affairs and by the Mayor and Clerk of the Town of Portugal Cove-St. Philip's, the day and year first before written.

**SIGNED AND SEALED** by the
Minister of Municipal and Intergovernmental Affairs and the Seal of the Department
was hereunto affixed in the presence of:

[Signature]

WITNESS

[Signature]

MINISTER OF MUNICIPAL AND INTERGOVERNMENTAL AFFAIRS

**SIGNED AND SEALED** by the
Mayor and Clerk of the
Town of Portugal Cove-St. Philip's
and the Seal of the
Town of Portugal Cove-St. Philip's
was hereunto affixed in the presence of:

[Signature]

WITNESS

[Signature]

WITNESS

[Signature]

MAYOR

[Signature]

CLERK
1. 2014-2017 Multi Year Capital Works Program - Item presented by Deputy Mayor Will

Motion: Will/Bartlett
2014-147 Resolved that Council authorize the Mayor and the Town Clerk to enter into an agreement (on behalf of Council) to accept the funding for projects in the amount of $2,763,119 under the 2014-2017 Multi-Year Capital Works Program.
Carried Unanimously
July 9, 2015

COR/2015/03211

APPROVAL TO CALL REQUEST FOR PROPOSALS (RFP)

Vigilant Management Inc.
69 Karwood Drive (Unit 9)
Paradise, NL
A1T 0L3

Re: 2014 Multi-Year Capital Works Program
Request for Proposals (RFP) for Engineering Consultant Services
Project No.17–MYCW-15-00002–Portugal Cove-St Phillips, NL-Skinner’s
Road Water Servicing and Water and Sewer Services–Drover Heights,
Indian Meal Line, and Franklin Place.

In accordance with your Town’s recent request and with the Minister’s earlier letter
approving funds, approval is hereby given to proceed with a public tender call for the
above noted project.

Please contact Mr. Stephen Slaney for arrangement of tender call services through
Tendering and Contracts, Engineering Support Services Division of the Department of
Transportation and Works.

[Signature]

Inayat Rehman, P. Eng.
Eastern Regional Engineer

cc: Hon. David Brazil, MHA
cc: Mr. Cluney Mercer, P. Eng., ADM
cc: Mr. Dan Noseworthy, Regional Director
cc: Mr. Haseen Khan, Environment and Conservation
cc: Mr. Stephen Slaney, Transportation and Works
cc: Mr. Frank Huxter, P. Eng.
cc: Mr. John O’Leary
cc: Mr. Denis Hickey
cc: Ms. Bertha Fowler