

THIS TRANSFER AGREEMENT made in duplicate as of the ____ day of March, 2021.

BETWEEN:

THE CITY OF MOOSE JAW
(hereinafter called the "City")

OF THE FIRST PART

- and -

SASKATCHEWAN WATER CORPORATION
(hereinafter called the "SaskWater")

OF THE SECOND PART

WHEREAS the City is the registered owner of a certain asset legally described as follows:

Production Well (Block 134 Lot 23)

- License #89J083 (SK WI 191093301626w200)
- Main well casing 114 millimetre diameter x 1,350 metres deep
- Check valve
- Main wellhead valve
- 1,200 millimetre diameter corrugated steel pipe casing and gravel fill
- Metal clad well building 2.44 metres wide x 2.44 metres deep x 3.54 metres high
- Associated appurtenances downstream of Point of Delivery

(hereinafter referred to as the "**Asset**");

AND WHEREAS the parties intend to transfer ownership of the Asset and have agreed to such transfer under the terms and conditions hereinafter set forth;

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration now paid and delivered by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree with each other as follows:

1. Transfer of Asset

- 1.1.** The City hereby agrees to transfer and assign unto SaskWater, all of the City's right, title and interest to the Asset, free and clear of all encumbrances and liabilities, at and for the price of One Dollar (\$1.00).

1.2. SaskWater agrees that following the Closing Date (as hereinafter defined), if SaskWater decides to dispose of the Asset, the City shall be provided the first opportunity to negotiate a transaction to repurchase the same.

2. Conditions Precedent

2.1. The obligation of SaskWater to accept the Asset is subject to the satisfaction, at or prior to the Closing Date, of the following conditions, which are for the exclusive benefit of SaskWater and may be waived only by SaskWater in writing:

- (a) The Asset shall have been rehabilitated in accordance with the letter agreement dated July 8, 2020 (the “**Letter Agreement**”). SaskWater shall have obtained and be satisfied with, in its sole discretion, a certified engineering analysis confirming the Asset have been rehabilitated;
- (b) SaskWater shall have received from the City the sum of One Hundred Thirty-Three Thousand Eighty-Seven Dollars (\$133,087.00) representing the City’s portion of the rehabilitation cost of the Asset in accordance with section 4(i) of the Letter Agreement;
- (c) SaskWater and the City shall have entered a water disposal agreement to permit SaskWater to dispose the return well water into the City’s sanitary sewer system (the “**Water Disposal Agreement**”);
- (d) SaskWater shall be satisfied that a Water Supply and Disposal Agreement will be entered into with Temple Hotels Inc.;
- (e) SaskWater and the City shall have agreed upon a form of easement agreement and/or lease agreement (collectively, the “**Land Control Agreements**”) which shall provide SaskWater land control and access required for the operation of the Asset at no cost to SaskWater on any land owned by the City, including the following:

Production Well

Surface Parcel #102497294
Title # 100122174
SW 33-16-26 W2M – Lot 23 Blk/Par 134 Plan OLD96 Ext 0

Surface Parcel #102497283
Title # 100122185
SW 33-16-26 W2M – Lot 24 Blk/Par 134 Plan OLD96 Ext 0

Pump House and Control Building

Surface Parcel #102497395
Title # 100121993
SW 33-16-26 W2M – Lot 5 Blk/Par 134 Plan OLD96 Ext 0

Surface Parcel #102497407
Title # 100122006
SW 33-16-26 W2M – Lot 6 Blk/Par 134 Plan OLD96 Ext 0

(collectively, the “**Lands**”)

- (f) SaskWater shall have received from the City and shall be satisfied with, in its sole discretion, its review and the results of any and all environmental site assessment reports respecting the Asset, including all material environmental reports completed pursuant to *The Environmental Management and Protection Act, 2010* (Saskatchewan) and the regulations thereunder;
- (g) SaskWater shall have obtained the necessary approvals from the Ministry of Energy and Resources to purchase the Asset, operate the Asset and construct the necessary secondary containment; and
- (h) SaskWater shall be satisfied, in its sole discretion, that the Water Security Agency will issue a Water Rights License to supply water from the Asset and Permit to Operate to operate the Asset.

2.2. The obligation of the City of Moose Jaw to transfer the Asset is subject to the satisfaction, at or prior to the Closing Date, of the requirement to obtain all necessary approvals from City Council, which is for the exclusive benefit of the City of Moose Jaw.

2.3. In the event any one or more of the conditions set forth above has not been satisfied, fulfilled, performed or waived in writing by the Closing Date then this Agreement shall be null and void.

3. Closing

3.1. In the event that SaskWater waives the conditions outlined in section 2 of this Agreement:

- (a) The closing of the transfer of the Asset contemplated by this Agreement shall occur on March 15, 2021 or such other date as may be agreed to by SaskWater and the City in writing acting reasonably (hereinafter referred to as the “**Closing Date**”).

- (b) The City covenants and agrees to transfer the Asset to SaskWater free and clear of liens and encumbrances.
- (c) The City covenants and agrees that it now, and will on the Closing Date, have good and marketable title to the Asset, free and clear of any encumbrances. Each party shall pay their own legal expenses, and SaskWater shall pay all registration charges relative to the Land Control Agreements.
- (d) The City covenants and agrees with SaskWater that on or before the date that is five (5) days before the Closing Date the City or its solicitors will deliver to SaskWater's solicitors, in trust:
 - i. an executed bill of sale for the Asset;
 - ii. an executed Water Disposal Agreement;
 - iii. executed Land Control Agreements for the Lands; and
 - iv. such other deliverables which the parties may agree are necessary to convey the Asset to SaskWater.

3.2. The Parties acknowledge and agree:

- (a) The Asset shall remain at the risk of the City until noon on the Closing Date and the City shall hold all policies of insurance and the proceeds thereof in trust for the parties hereto as their interest may appear, and the Asset shall be at the risk of SaskWater thereafter;
- (b) In the event of damage to the Asset before the Closing Date, the cost of repair of which would exceed an amount equal to \$100,000.00, this Agreement may be terminated at SaskWater's discretion, whereupon neither party shall have any claim against the other party for costs or damages of any kind;
- (c) In the event that the Asset sustain damage prior to the Closing Date, of a nature where the damage is such that it does not meet the threshold in 3.3(b), or if the damage does meet such threshold and SaskWater elects not to terminate, then all monies realized from the insurance in the case of loss or damage to the Asset shall be applied to rebuilding or repairing the Asset to its condition prior to sustaining such damage, at the option of SaskWater;
- (d) Other than as expressly set out in this Agreement, the City is making no representations or warranties to SaskWater in respect of the Asset; and

- (e) From and after the Closing Date the Asset shall be entirely at the risk of SaskWater and SaskWater assumes any and all responsibilities and liabilities, environmental and otherwise, arising out of or in any way connected with any condition in, on or in relation to the Asset, whether or not such conditions or substances existed prior to or subsequent to the date of the Agreement.

4. SaskWater Representations and Warranties

4.1. SaskWater warrants, represents and covenants with the City that:

- (a) SaskWater is and will as of the Closing Date be a duly incorporated and validly existing Crown corporation under the laws of the Province of Saskatchewan with the power, capacity and authority to enter into this Agreement and to carry out the transactions herein contemplated; and
- (b) The entrance into or performance of this Agreement by SaskWater shall not constitute a breach by SaskWater of its constating documents or result in the breach of any terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust or any other agreement to which SaskWater is a party or by which it is bound or which would result in the creation of any lien, encumbrance or other charge on the Asset.

5. Confidentiality

5.1. The parties hereto acknowledge and agree that this Agreement is a confidential document. The parties agree to treat all such information confidentially and not to disclose to any third party except as may be required: (a) in order to register the transfer authorization regarding the Asset, (b) pursuant to an order by an authority having jurisdiction over the parties, (c) pursuant to *The Local Authority Freedom of Information and Protection of Privacy Act* or *The Freedom of Information and Protection of Privacy Act*, or (d) by any other law (including any municipal laws, regulations, orders or directives).

6. General Provisions

6.1. All representations, warranties, covenants and indemnities contained in this Agreement shall survive the closing of the purchase and sale transaction and continue in full force and effect for the benefit of the party for whom they were made. It is understood and agreed by the parties hereto that there are no other representations, warranties, guarantees, promises or agreements other than those contained in this Agreement.

6.2. Any notice, document or other communication required or permitted to be given hereunder shall be in writing, and shall be delivered personally, by hand, by prepaid courier, by regular mail, or delivered by facsimile transmission or other electronic communication to each of the parties at the address and/or facsimile transmission number and/or email address for such party set out below, or to such other address in Canada as any party may in writing advise to the other. Delivery by hand shall occur upon actual delivery, delivery by courier shall be deemed to occur on the date of delivery, delivery by regular mail shall be deemed to occur three (3) business days after posting, and delivery by facsimile or other electronic transmission shall be deemed to occur upon transmission.

to the City at:

c/o City of Moose Jaw
228 Main Street North
Moose Jaw, SK S6H 3J8

Attention: Clerk/Solicitor
Facsimile: (306) 694-4528
Email: CClerk@moosejaw.ca

to SaskWater at:

c/o SaskWater
200 – 111 Fairford Street East
Moose Jaw, SK S6H 1C8
Attention: Vice President, Corporate and Customer Service
Facsimile: 306-694-3916
Email: customerservice@saskwater.com

- 6.3.** The parties hereto acknowledge and agree that the legal doctrine of *contra proferentem* shall not apply to this Agreement.
- 6.4.** Time shall be of the essence in every respect of this Agreement.
- 6.5.** The invalidity of any provision, or portion of a provision, of this Agreement shall not affect the validity of the rest of this Agreement.
- 6.6.** A waiver by either party of the strict performance by the other of any covenant or provision of this Agreement shall not constitute a waiver of any subsequent breach of such covenant or provision, or of any other covenant, provision or term of this Agreement.

- 6.7.** Each of the parties hereto shall, at the request of the other party, execute and deliver any further or additional documents and do all acts and things that may be reasonably necessary to properly transfer title to the Asset and to carry out the true intent and meaning of this Agreement.
- 6.8.** This Agreement and its provisions shall enure to the benefit of and be binding upon the parties hereto and their successors and permitted assigns.
- 6.9.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings.
- 6.10.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan. The parties hereby attorn to the jurisdiction of the courts of Saskatchewan for all disputes arising out of this Agreement.
- 6.11.** This Agreement may be executed in counterparts and such counterparts together shall constitute a single instrument. Delivery of an executed counterpart of this Agreement by electronic means, including, without limitation, by facsimile transmission or by electronic delivery in portable document format (“.pdf”), shall be equally effective as delivery of a manually executed counterpart hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties have hereunder affixed their hands and corporate seals as of the date first above written.

CITY OF MOOSE JAW

Per: _____

(seal)

Name: _____

Title: Mayor

Per: _____

Name: _____

Title: City Clerk

**SASKATCHEWAN WATER
CORPORATION**

Per: _____