



ROTHESAY
SPECIAL COUNCIL MEETING
By WebEx Videoconference
Thursday, March 25, 2021
4:00 p.m.



PUBLIC NOTICE:

Rothsay Council meetings will be held by teleconference (or videoconference) while the Province is under a State of Emergency and physical distancing is mandatory.

Public access to the Live stream will be available online:

<https://www.rothesay.ca/town-hall/agendas/>

1. APPROVAL OF AGENDA

2. DELEGATIONS

ENVISION Saint John: The Regional Growth Agency

Thor Olesen, Vice-Chair / Governance Committee Chair

Presentation

Paulette Hicks, CEO ENVISION Saint John

Al Walker, Treasurer / Finance Committee Chair

Bill MacMackin, HR Committee Chair

3. UNFINISHED BUSINESS (remove from table)

24 March 2021

Memorandum from Town Manager Jarvie

18 March 2021

Letter from ENVISION Saint John Transition Board Chair C. Goodwin

1 March 2021

Letter from Regional Economic Development Agency Greater Saint John
Transition Board Chair C. Goodwin

DRAFT

Members Agreement

DRAFT

Funding Agreement

4. NEXT MEETING

Regular meeting

Monday, April 12, 2021 at 4:00 p.m.

5. ADJOURNMENT



ENVISION Saint John

THE
REGIONAL
GROWTH
AGENCY

ENVISION Saint John

THE REGIONAL GROWTH AGENCY

The Regional Vision

- ✓ Game-changer - a singular economic development entity with greater impact and alignment for GROWTH.
- ✓ Grand Bay-Westfield – Saint John – Quispamsis – Rothesay – Hampton – St. Martins.
- ✓ Aligning the mandates of the legacy agencies – Discover Saint John, Develop Saint John, Economic Development Greater Saint John to also include a new focus on Population Growth.
- ✓ One organization with one mission, one team, one budget and one board.

The first 90 days (the heavy lifting)

01

LISTEN TO THE
ECOSYSTEM

02

ESTABLISH
ORGANIZATIONAL
FRAMEWORK

03

BUILD CULTURE
& ENGAGE
COMMUNITY

04

IDENTIFY
OPPORTUNITIES

05

IMPLEMENT
& EXECUTE

Pillars for Growth

2021 March 25 SPECIAL OpenSession_006



Areas of Focus

1. People as a Priority
2. Performance as a Driver
3. Alignment as an Accelerator

People as a priority

30 days

1. Internal talent

- Engagement with all employees on their current roles, strengths and contributions understood. 17 meetings in first 6 days on the job.
- HR talent opportunities identified.

2. External talent

- Meaningful connections with key stakeholders, partners and leaders

3. Investor engagement

- Presentation to 4 of 5 Municipal Councils within the first 6 days on the job.

4. Setting first organizational structure

- Agency evolving into one team.
- Organization core operations in place.
- Short-term priorities identified

Performance as a driver

60 days

- Continued focus on organization effectiveness.
- Continued engagement with partners/investors and community on work/vision.
- Mapping of the ecosystem and regional assets.
- Regional dashboard project underway.
- Setting clear objective that Metrics and KPIs will be tied to strategic plan process.
- Comprehensive strategic plan will focused on our 4 Attraction pillars:
 1. People Attraction
 2. Business Attraction
 3. Visitor Attraction
 4. Investment Attraction

Alignment as an accelerator

90 days

- Unified, integrated and focused Team, Board and....REGION!
- Program review and validation completed.
- Continued engagement with partners/investors and community on work/vision.
- Comprehensive regional strategic plan well underway.
- Quarterly Regional dashboard designed.

Key next steps...

Growth Headquarters

- RFP in market (February 23 to March 17, 2021)
- 8 responses
- Scorecard evaluation:
 - One location for the entire team
 - Co-location opportunity with partners
 - Enhance community profile
 - One stop shop for clients and regional partners
 - Collaborative environment

Strategic Plan

- RFP in market (March 5 – March 22, 2021)
- 16 responses
- Scorecard evaluation
 - Timeline – completed by Aug 1st
 - Immediately map participants by sector/investors/partners
 - Identify and prepare briefing for inputs i.e. – Innovation District
 - Define stakeholder engagement plan
 - Robust communication plan to support the work

Focus on Measurements

Engaged outside consults and leaders to assist with two key areas in preparation of strategic planning:

1. defining appropriate regional economic targets and key measurements to assist in building the agency KPI's for dashboard.
2. validation of programs. How do these programs impact performance outcomes for our regional economy.

Moving forward

- ✓ Approval of Members & Funding Agreements
- ✓ Embrace the strategic planning process
- ✓ Continue to champion our regional model

Paulette Hicks, CEO

Email - Paulette.hicks@envisionsaintjohn.com

Direct line 506.674.4171



ROTHESAY

MEMORANDUM



TO	:	Mayor Grant & Council
FROM	:	John Jarvie
DATE	:	24 March 2021
RE	:	Membership & Funding Agreements – New Economic Development Agency

Recommendation:

it is recommended Council approve the execution of the Funding and Membership agreements with Envision Saint John, the Regional Growth Agency.

Introduction:

In the meeting package, you will find two agreements involving the new regional economic development agency to be styled - **Envision Saint John, the Regional Growth Agency**. These agreements are intended to be based on *Collaborating to Ensure the Municipalities in Greater Saint John Will Prosper in the 2020s: A New Economic Development Model* (the "Prospectus") and are interdependent. The following motion was made at the July Council meeting with respect to the Prospectus;

Recognizing its limitations and inspired by its promise, Rothesay Council endorses the Prospectus (prepared by the Advisory Committee on Regional Economic Development, July 13, 2020) and commits to its realization, working cooperatively with others in the region.

Background:

Sometime in 2019, the City of Saint John embarked on a review of its agencies, boards and commissions (ABCs). We understand as part of that review the City identified three organizations and some internal functions related to economic development and believed that they could be consolidated to achieve improved results. The City then selected a committee of volunteers to advise on this endeavour. This committee was called the Saint John Economic Development Strategic Advisory Council and was chaired by Paulette Hicks. Among its' recommendations we are told was that there should be a new single organization to promote economic development and it should be regional in its composition and reach. The mayors of the towns were approached about this concept in the summer of 2019.

For the next year staff worked with the representatives of the other municipalities and select members of the Advisory Council toward some sort of economic development model. An already challenging process was made more so by the onset of the pandemic in March 2020. The Prospectus was not a document staff could fully endorse. Key areas of concern revolved around the funding formula, composition of the executive committee, the timeline for implementation and the involvement of the current staff of the existing organizations, in particular Economic Development Greater Saint John (EDGSJ) to which Rothesay had contributed for more than 20 years.

Funding Agreement

This agreement is directly between Rothesay and the Agency. The contributions reflect the numbers in the Prospectus. All of the municipalities are expected to adopt agreements with

similar wording except for the specific contributions. The other exception, in the case of the City of Saint John is some specific wording related to staffing visitor information centres. The City is responsible for maintaining the buildings and the Agency for the personnel. This arrangement reflects the monies from the City's Accommodation Levy.

Although clause 3(b) indicates that a tourist accommodation levy is a requirement of Rothesay, the Membership Agreement spells out in detail alternatives to adoption of a levy.

There is considerable language in both agreements related to tax. This language is meant to clarify that the total municipal contribution is limited to the amounts set out in the funding agreements. If the Canada Revenue Agency determines that HST is applicable, this would be subtracted from the amounts payable to the agency. The term of the Agreement is for five years with the possibility of exiting after three in limited circumstances. The remainder of the document is essentially typical contract terms.

Members' Agreement

The Members' Agreement is by far the more complex. The new organization was incorporated federally which accounts for some of the complexity in the contract language. This agreement is to be signed by all the municipalities and the new agency. The recitals and the first Article set the context for understanding the substantial parts of the document.

There are several terms which can be confusing including "Members" and "Municipal" and "Outside" Directors. Essentially each of the municipalities is a "Member" represented by a "Municipal Director" (the City has two). Unless Council establishes otherwise, the Rothesay Director (me), acts as the "Member" on behalf of the Town. This is particularly relevant with respect to annual meetings or meetings of the Members to make particular decisions. It would be my intention to make Council aware of such meetings and related decisions.

The other or "Outside Directors" are selected by a nomination process run by the Outside Directors and excluding the Municipal Directors. Depending on the role being fulfilled, an Outside Director may sit on the Board for as many as 12 years. NB Postsecondary Education and Labour have appointed a local representative to sit on the Board.

There is a series of committees established with limited definition of mandate to this point. The City Manager sits on the Executive Committee *ex officio*. There is limited language regarding purchasing and hiring practices and a purchasing policy has been adopted by the Board. In my view, there are still some clear policies to be formulated related to procurement, staffing and transparency to reflect that that public money funds the agency.

Council should note in particular section 3.13. This lists the decisions on which only the municipal representatives may vote unless there is a tie. Each of the City representatives has two votes. The four town representatives have one vote each.

Article 4 lists the work that the organization will do. It is important to note 4.3 as the Board has already agreed to provide services exclusively to the City not described in the list of core services and programs set out in the Prospectus. Article 5 provides additional background to the provisions of the Funding Agreement. After considerable discussion, the wording has been changed to acknowledge that it is a separate decision of Council whether or not to adopt an

accommodations levy. Section 5.8 requires the organization to provide quarterly reports, which I intend to table with Council.

A mechanism for engaging the local service districts and the Village of St. Martins has not yet been fully developed. It is expected that Department of Local Government and Municipal Reform will play a role.

There is extensive language on the circumstances under which a municipality may withdraw or may be forced to leave prior to the expiration of the five year agreement. There is a possibility of leaving after three years if performance does not meet expectations.

There has been discussion around confidentiality of information. The Outside Directors views seem somewhat different than the Municipal Directors and this may be a point of future discussion regarding the need to keep councils and the public informed.

Any direct benefits to Rothesay will not be identifiable until a strategic plan has been adopted. The process for strategic plan development is not yet begun and the deadline to have such a plan in place is August 1.

General Comments

We have not received draft bylaws or other documentation required to assess some aspects of the new organization; nor has strategic planning begun. The volunteer Directors are working address these areas. Participation from the volunteer Directors has been very strong and Council may wish to acknowledge their considerable efforts.



March 18, 2021

Mayor and Council
Town of Rothesay
70 Hampton Road
Rothesay, NB E2E 5L5

RE: Special Meeting Request – Member and Funding Agreements

Dear Mayor and Council,

On behalf of the Board of Directors for Envision Saint John: The Regional Growth Agency, I would like to apologize for the confusion caused by the request from Paulette Hicks, CEO, to present to Rothesay Town Council in closed session. Paulette made this request so she could provide an operational update on her 30-60-90-day plan, which was delivered to all other municipal councils in our region.

While providing an operational update will be important, more urgent is the Board of Directors' request that Council meet to vote on the Member and Funding Agreements, modeled after the Prospectus previously presented and approved by all municipal partners. This meeting should occur before the end of the day March 31, 2021 to allow the new agency to activate its second quarter funding.

We want to acknowledge and thank John Jarvie and his municipal counterparts for the work undertaken with the agency's Board Governance and Nomination Committee to finalize the Member and Funding Agreements, which received unanimous approval from our Board of Directors. We are also pleased to share that the Councils of the four other municipal partners have voted in favour of their agreements.

Envision Saint John: The Regional Growth Agency recognizes the critical role our municipal partners play in growing our region and look forward to ratifying the Member and Funding Agreements with the Town of Rothesay. Please feel free to reach out to me directly with any questions or concerns, and we look forward to hearing your response.

Sincerely,

A handwritten signature in black ink, reading "Cynthia Goodwin". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Cynthia Goodwin
Transition Chair, Board of Directors
Envision Saint John: The Regional Growth Agency

Cc: John Jarvie, Town Manager, Town of Rothesay
Thor Olesen, Vice-Chair, Board of Directors, Envision Saint John: The Regional Growth Agency
Paulette Hicks, CEO, Envision Saint John: The Regional Growth Agency

New Regional Economic Development Agency for Greater Saint John

Mary Jane Banks
Rothsay Town Clerk
70 Hampton Road
Rothsay, New Brunswick
rothesay@rothesay.ca

March 1, 2021

Dear Mary Jane Banks,

It is my pleasure to provide you two documents for review and approval by Rothsay Town Council.

The New Regional Economic Development Agency for Greater Saint John (Agency) Municipal Directors have been diligently working to create agreements which will serve as the primary agreements between the participating municipalities and the new Agency. These agreements are in keeping with the guiding principles of the "Prospectus", which was created as a guide for the structure and relationships of the new Agency and was approved by your Council as well as the other member municipalities.

Accompanying this letter are two agreements for review and approval.

1. Members' Agreement - This agreement will serve to formalize the relationship between all member municipalities and the new Agency.
2. Funding Agreement - This agreement will outline the specifics of the funding commitment between Rothsay and the new Agency.

The agreements provided have been unanimously approved by the Agency's Municipal Members as well as the Board of Directors. We are hopeful that Rothsay Council will also provide its approval and continue the strong regional commitment to growth made by all participating municipalities.

Sincerely,

A handwritten signature in cursive script, reading "Cynthia Goodwin", followed by a horizontal flourish line.

Cynthia Goodwin
Transition Board Chair

**MEMBERS' AGREEMENT
NEW REGIONAL ECONOMIC DEVELOPMENT AGENCY FOR GREATER SAINT JOHN**

Dated: _____, 2021

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SCHEDULE A THE PROSPECTUS

SCHEDULE B MUNICIPAL FUNDING

MEMBERS' AGREEMENT

THIS MEMBERS' AGREEMENT is made as of _____, 2021,

AMONG:

THE CITY OF SAINT JOHN

(**"SAINT JOHN"**)

- and -

GRAND BAY-WESTFIELD

- and -

HAMPTON

- and -

QUISPAMIS

- and -

ROTHESAY

-and-

**NEW REGIONAL ECONOMIC DEVELOPMENT
AGENCY FOR GREATER SAINT JOHN**

WHEREAS:

- A. The Prospectus dated July 2020 titled "Collaborating to Ensure the Municipalities in Greater Saint John Will Prosper in the 2020s" attached as Schedule A proposed a new economic development model (the "Prospectus").
- B. New Regional Economic Development Agency for Greater Saint John (the "Agency") was incorporated pursuant to the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23 (the "Act") to promote economic development in the Region and otherwise give effect to the obligations, responsibilities, goals and objectives described in the Prospectus;
- C. Saint John, Quispamsis, Rothesay, Grand Bay-Westfield, Hampton and the Agency each wish to enter into this Agreement as a unanimous member agreement pursuant to section 170(1) of the Act, to provide for certain matters in relation to membership in the Agency and the governance of the Agency;
- D. Section 104(2) of the *Local Governance Act*, S.N.B. 2017, c. 18, provides that local governments may encourage economic development in any manner considered appropriate.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions

For the purposes of this Agreement the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

“Accommodation Levy” means an accommodation levy collected under the authority of a by-law duly enacted pursuant to section 101.1 of the Local Governance Act, S.N.B. 2017, c. 18.

“Act” has the meaning set forth in Recital B.

“Agency” means New Regional Economic Development Agency for Greater Saint John.

“Agency Board” means the board of directors of the Agency.

“Agreement” means this unanimous members’ agreement.

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in New Brunswick, Canada.

“By-Laws” means the by-laws of the Agency.

“Budgets” means the Capital Budget and Operating Budget as approved by the Agency Board in accordance with Section 5.6.

“Capital Budget” means the annual capital budget of the Agency.

“Chair” means the Outside Director elected by the Agency Board as Chair.

“Committee” shall mean a committee established by the Agency Board as provided for in Section 3.10.

“Compensation” includes all current and deferred, direct and indirect, forms of compensation, including salaries, fees, bonuses, insurance, loan and other benefits, cash, equity or other incentive compensation, perquisites and retirement benefits, termination and other benefits payable on or following termination of employment.

“Confidential Information” has the meaning set forth in Section 9.1.

“Control” means, with respect to any Person, the possession, directly or indirectly, of the power to elect a majority of such Person’s board of directors or similar governing body, or to direct or cause the direction of the management, business or policies of such Person, through ownership of capital stock issued by a corporation (or equivalent interests in any other Person), the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or Persons performing similar functions) of such Person, even if such right to vote has been suspended by the happening of such contingency, by contract or otherwise; and **“Controlled”** has a corresponding meaning.

“Core Services and Programs” means the services and programs described in Section 4.1.

“Directors” means the Municipal Directors, the Outside Directors, and the Provincial Government Director.

“Dispute” has the meaning set forth in Section 10.1.

“Encumbrance” means any security interest, mortgage, debenture intended as a security device, deed of trust that includes provisions intended as a security device, option, pledge, hypothecation, assignment by way of charge, collateral assignment, charge or deposit arrangement, trust (actual or deemed) intended as a security device, lease intended as a security device, lien (statutory or other), restrictive covenant or other encumbrance or right creating or evidencing an interest in property including those created by, arising under or evidenced by any conditional sale or other title retention agreement.

“Funding Agreement” means any agreement between a Member and the Agency providing for funding by the Member in accordance with the Funding Plan.

“Funding Plan” means the plan for funding the Agency through Member contributions, contributions from the Province, private sector support and contributions contemplated from LSDs.

“Governance Committee” has the meaning set forth in Section 3.10(a).

“HST” means Harmonized Sales Tax.

“Interest” means the membership interests of a Member of the Agency and includes the rights and interests of the Member under this Agreement.

“KPIs” means the key performance indicators approved by the Members under Section 5.7.

“LSD” - means a Local Service District (as such term is defined in the *Local Governance Act*, S.N.B. 2017, c. 18) within the Region and **“LSDs”** means more than one LSD within the Region.

“Material Underperformance” means an event or instance, as more fully addressed in Section 8.1.

“Member” means each of the City of Saint John, Grand Bay-Westfield, Hampton, Quispamsis and Rothesay and **“Members”** means all of them.

“Municipality” means a “city”, “town” or “village” as those terms are defined in the *Local Governance Act*, S.N.B. 2017, c. 18.

“Municipal Director” means a director appointed by a Member from among its Non-elected Senior Staff.

“Nominating Subcommittee” means the Nominating Subcommittee referred to in Section 3.10(b)(ii).

“Non-elected Senior Staff” of a Member means those persons employed in a senior managerial role with a Member but does not include any person holding elected office.

“Operating Budget” means the annual operating budget of the Agency.

“Other Services and Programs” means other services and programs as approved by the Agency under Section 4.4.

“Outside Director” means a director who is not employed by a Member and does not hold any elected office with a Member that has been nominated by the Nominating Subcommittee and elected by the Members in accordance with Section 3.6.

“Parties” means, at any particular time, collectively, each of the signatories to this Agreement and **“Party”** means any of the Parties.

“Person” means any individual; any body, public or private, incorporated anywhere in the world; any partnership; any limited partnership; any limited liability company; any unlimited liability company; any other entity formed for business or investment purposes; any joint venture; any trust or unincorporated organization; the Crown or any agency or instrumentality thereof; and any other entity recognized by law.

“Prospectus” has the meaning assigned in the Recital A.

“Province” means the Province of New Brunswick.

“Provincial Government Director” means a director appointed from time to time by the Department of Post Secondary Education, Training and Labour or other department as directed by the Province.

“Region” means the area identified as the Greater Saint John Census Metropolitan Area by Statistics Canada and includes, inter alia, the City of Saint John, Grand Bay-Westfield, Hampton, Quispamsis and Rothesay and the LSDs situated within its geographic bounds.

“Strategic Plan” means the four year strategic plan prepared by the Agency in accordance with Section 5.1.

“Subsidiary” means, with respect to any Person, any other Person who, directly or indirectly, is Controlled by such Person.

“Tax Act” means the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as the same may be amended, re-enacted or replaced from time to time.

“Transferred Property” means any real property or other tangible property of a Member or non-Member that has been transferred to the Agency.

“Withdrawal Date” means the effective date of a Member’s withdrawal or expulsion from this Agreement.

“Withdrawal Notice” means a notice by a Member to withdraw under Section 8.1 or a notice of expulsion under Section 8.2.

“Withdrawn Member” means a Member who has withdrawn from this Agreement pursuant to Section 8.1 or has been expelled under Section 8.2.

1.2 Intention

This Agreement is to be interpreted so as to give effect to the intent as expressed in the Prospectus.

1.3 Currency

Unless otherwise indicated, all dollar amounts referred to in this Agreement are expressed in Canadian funds.

1.4 Sections and Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise specified, any reference to an Article or a Section refers to the specific Article or Section of this Agreement.

1.5 Rules of Construction

In this Agreement:

- (a) the terms “this Agreement”, “hereof”, “herein”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion of this Agreement;
- (b) words importing the singular number only include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders and vice versa;
- (c) the words “include”, “includes” and “including” mean include, includes or including, in each case, without limitation;
- (d) reference to any agreement or other instrument means such agreement or other instrument as amended, modified, replaced or supplemented from time to time; and
- (e) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next following Business Day.

1.6 Entire Agreement

This Agreement and the other documents referred to herein, including any Funding Agreements entered into between the Agency and any Member, constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided in this Agreement, such other documents, or any combination thereof.

1.7 Governing Law; Jurisdiction

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the laws of the Province and the federal laws of Canada applicable therein and, subject to the provisions of ARTICLE 10 each Party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such Province and all courts competent to hear appeals therefrom.

1.8 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof and each provision is hereby declared to be separate, severable and distinct. To the extent that any provision is found to be invalid, illegal or unenforceable, the Parties shall act in good faith to substitute for such provision, to the extent practicable under the circumstances, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

1.9 Amendment

No amendment or modification of this Agreement is effective except by an instrument in writing that is executed and delivered by all of the Parties or if the relevant amendment or modification exclusively affects rights and obligations between the Members, by all of the Members and is identified as an amendment or modification to this Agreement.

1.10 Waiver

Any Party may extend the time for the performance of any of the obligations owed to such Party by one or more of the other Parties or waive compliance with any of the covenants or performance of any of the obligations owed to such Party by one or more of the other Parties or any of the conditions to performance of such Party's obligations contained herein. Any such extension or waiver is valid only if such extension or waiver is set forth in an instrument in writing that is executed and delivered by the Party to be bound thereby and is expressly identified as an extension or waiver hereunder. The failure or delay of any Party to assert any of its rights hereunder does not constitute a waiver of any of such rights. Any failure or delay of any Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms does not in any way affect the validity of this Agreement, or any part hereof, and is not to be deemed to be a waiver of the right of such Party thereafter to enforce any and each such provision. Each Party may give or withhold its consent in its sole discretion, unless this Agreement expressly provides for a different standard in a given instance.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES**2.1 Representations and Warranties of Members**

Each of the Members hereby represents and warrants to each of the other Parties hereto that as at the date of its execution and delivery of this Agreement:

- (a) such Member has the full power, authority and legal right to execute and deliver this Agreement and to perform its obligations hereunder; and
- (b) this Agreement has been duly authorized, executed and delivered by such Member and constitutes a legal, valid and binding obligation of such Member, enforceable against such Member in accordance with the terms hereof.

ARTICLE 3

MANAGEMENT OF THE AGENCY

3.1 Overriding Principles

The Agency and the Members shall at all times discharge their responsibilities and obligations to each other in good faith and in accordance with generally accepted governance and business practices and in compliance with all applicable laws.

3.2 Governance of the Agency

The Agency Board shall consist of fifteen (15) Directors as follows:

- (i) six (6) Municipal Directors; of which
 - (A) two (2) shall be nominated by the City of Saint John, one of whom shall be the City Manager; and
 - (B) one (1) shall be nominated by each of Grand Bay-Westfield, Hampton, Quispamsis and Rothesay;
- (ii) eight (8) Outside Directors, including the Chair; and
- (iii) one (1) Provincial Government Director.

3.3 Vacancies

- (a) Upon the resignation of a Director or any Director otherwise ceasing to serve as a Director for any reason:
 - (i) the person who nominated such Director pursuant to Section 3.2(i), in the case of a vacancy arising in the Municipal Directors, or pursuant to 3.2(iii) in the case of a vacancy arising in the Provincial Government Director shall be entitled to nominate a replacement;
 - (ii) or in the case of a vacancy arising in the Outside Directors, the process described in Section 3.6 shall be followed to nominate a replacement,

in each case, to serve for the balance of the term and, upon such nomination, the Chair shall promptly call a meeting of the Members for the purpose of electing such person as a Director in accordance with Section 3.4,

- (b) Where a vacancy or vacancies exist in the Agency Board, the remaining Directors may exercise all of the powers of the Agency Board so long as a quorum remains in office.

3.4 Election of Directors

The Members shall exercise their influence in respect of the Agency and take all other actions that may be required, including voting at any meetings of Members and adopting all resolutions of Members, in order to select as the Directors the persons nominated in accordance with the provisions of this Agreement and to otherwise ensure that the Agency Board shall at all times be constituted in accordance with the provisions of this Agreement.

3.5 Municipal Directors

- (a) Each Municipal Director shall be nominated as provided for in paragraph 3.2(i).
- (b) Each Municipal Director shall hold office for a term of four years and may be nominated for further terms of four years each at the discretion of the Member or Members who nominated such Municipal Director.
- (c) A Municipal Director may be removed and replaced at the discretion of the Member or Members who nominated such Municipal Director, with notice to the Chair.

3.6 Outside Directors

- (a) The Outside Directors shall be nominated in accordance with the following procedure:
 - (i) To ensure that the Agency Board is comprised of individuals that collectively possess a balance of skills, expertise and perspectives and is appropriately representative in terms of gender balance, diversity and geographic representation, to contribute to the governance of the Agency, the Nominating Subcommittee shall develop a skills matrix against which it assess applications from persons interested in serving as Outside Directors.
 - (ii) When there is a vacancy in the Outside Directors or where the Nominating Subcommittee anticipates a vacancy in the Outside Directors, the Nominating Subcommittee shall, through a public or other transparent process including, to the extent the Nominating Subcommittee considers advisable in the circumstances through engaging a professional search firm, solicit interest from individuals resident in the Region who are willing to serve as Outside Directors.
 - (iii) The Nominating Subcommittee shall assess the candidates against the skills matrix and shall nominate a suitably qualified person for each vacancy taking into account the Agency Board's current and future needs and the objective of achieving a high functioning board.
 - (iv) Each Outside Director shall hold office for a term of three years, and may be nominated for a subsequent term of three years at the discretion of the Nominating Subcommittee. No Outside Director shall serve for more than two (2) consecutive three year terms unless nominated to the Executive in which case the Outside Director may serve for up to two (2) additional three year terms.

- (v) Any person nominated as an Outside Director shall have his or her name put forward to the Agency Board and Members, for election by the Members.

- (b) An Outside Director may resign from the Agency Board by notice to the Chair.

3.7 Provincial Government Director

- (a) The Provincial Government Director shall be nominated as provided for in paragraph 3.2(iii).
- (b) The Provincial Government Director shall hold office for a term of four (4) years and may be re-nominated at the discretion of the Department of Post Secondary Education, Training and Labour or other department as directed by the Province.
- (c) The Provincial Government Director may be removed and replaced at the discretion of the Department of Post Secondary Education, Training and Labour or other department as directed by the Province, with notice to the Chair.

3.8 Quorum

The quorum for meetings of the Agency Board shall consist of a majority of the Directors in office.

3.9 Remuneration

All Directors shall serve without remuneration but shall have their reasonable expenses reimbursed.

3.10 Committees

- (a) The Agency Board shall appoint:
 - (i) a Governance Committee;
 - (ii) a Finance and Audit Committee;
 - (iii) a Human Resources Committee;
 - (iv) and such other committees as may be provided for in the By-Laws.
- (b) The Governance Committee:
 - (i) shall consist exclusively of Outside Directors and shall ideally include at least one Director who is a lawyer or otherwise has governance experience;
 - (ii) shall establish a Nominating Subcommittee consisting of some or all of the members of the Governance Committee.
- (c) The Finance and Audit Committee shall include at least one Director who is a financial expert (by reason of having obtained a recognized professional accounting designation) or, if unavailable from the Directors, at least one Director

who has a minimum of five (5) years' experience working in a financial-related position.

- (d) The Human Resources Committee shall consist exclusively of Outside Directors.
- (e) The terms of reference of each Committee shall be as approved by the Agency Board.

3.11 Agency Board Executive

- (a) The Agency Board Executive shall consist of:
 - (i) the Chair;
 - (ii) up to two Vice Chairs;
 - (iii) a Treasurer;
 - (iv) the Saint John City Manager, as an ex officio non-voting member.
- (b) Each of the Chair, Vice Chair(s), and Treasurer shall be Outside Directors appointed by the Agency Board on the recommendation of the Governance Committee.
- (c) The Chair shall hold office for a two year term and shall not serve as Chair for more than two (2) consecutive terms.

3.12 Procurement and Employment Practices

- (a) The Agency shall adopt and comply with a procurement policy that is consistent with the intent of the *Procurement Act*, S.N.B. 2012, c. 20 including the use of competitive and open procurement practices.
- (b) The Agency shall publicly advertise employment opportunities within its operations unless it determines in connection with any particular position that it is in the best interest of the Agency to undertake other reasonably acceptable employee search procedures.
- (c) The Agency shall provide equal opportunity employment and shall hire employees on the basis of candidates satisfying necessary core competencies.

3.13 Member Approval Rights

- (a) In addition to approval by the Agency Board and any other consent or approval required by law, each of the following shall require the prior approval by a majority vote of the Members:
 - (i) the approval of the Strategic Plan;
 - (ii) the approval of the KPIs;

- (iii) any annual business plan that would have the effect of adding or removing a strategic goal as set out in the Strategic Plan or delay or accelerate the completion of the Strategic Plan by more than one year;
 - (iv) any amendment to the By-Laws of the Agency;
 - (v) the borrowing of any amount, other than credit extended by sellers and amounts charged to credit cards for the purchases of goods and services in the ordinary course within the limits of the approved Budget;
 - (vi) the provision of any guarantee, indemnity or other financial support for the benefit of any Person other than indemnities provided to Directors of the Agency;
 - (vii) any amalgamation, reorganization or arrangement involving the Agency;
 - (viii) the establishment or acquisition of any Subsidiary;
 - (ix) the dissolution, liquidation or winding up of:
 - (A) the Agency, or
 - (B) any Subsidiary of the Agency;
 - (x) the appointment or dismissal of the auditor of the Agency.
- (b) Any meeting of Members shall be conducted in the manner provided for in the Act and By-laws, provided that:
- (i) unless a Member otherwise designates in writing a person to represent it, each Member shall be represented by the Municipal Director or, in the case of the City of Saint John the Municipal Directors, nominated by it acting in capacity as representative of their nominating Member and not as Agency Director;
 - (ii) at any such meeting each of the representatives of the City of Saint John shall be entitled to two votes and each of the representatives of the other Members shall be entitled to one vote each; and
 - (iii) All decisions of the Members must be made by a resolution passed at a meeting of the Members by an affirmative vote of at least a majority of the Members present or by a resolution in writing signed by the Members in accordance with the Act. In the case of a tie vote, the matter shall be referred to, and determined by the majority vote of, the Outside Directors.
- (c) Except as set forth in this Section 3.13 or as may be required by the Act or By-Laws of the Agency, no Member shall have any consent or approval rights in relation to the operation or management of the business of the Agency.

3.14 Agency Approval Rights

- (a) In addition to any other consent required by law, the Agency shall not take any of the following actions except with the approval of the Agency Board:

- (i) the granting of any Encumbrance on its assets;
- (ii) any sale, lease or other disposition of any assets other than:
 - (A) a sale, lease or other disposition in the ordinary course of its business or otherwise contemplated in the Budgets; and
 - (B) a sale, lease or other disposition of immaterial or redundant assets;
- (iii) any capital expenditure not provided for in the Capital Budget approved by the Agency Board;
- (iv) the payment by the Agency of any Compensation to any employee or officer in excess of any compensation plan approved by the Agency Board or the Human Resources Committee or any other applicable committee of the Agency Board, where such payment would materially impact the Operating Budget of the Agency.
- (v) any other types of expenditure determined by the Board to require its approval.

ARTICLE 4

SERVICES AND PROGRAMS

4.1 Economic Development Activity Specific to a Member

It is acknowledged and agreed that each of the Members is free to conduct economic development activities specific to their municipality while continuing to support the efforts of the Agency in the Region.

4.2 Core Services and Programs

The Agency shall be the principal organization concerned with all aspects of economic growth within the Region. The Agency shall deliver the Core Services and Programs as outlined in the Prospectus, which are summarized as follows:

- (a) marketing, promotion and branding;
- (b) people attraction;
- (c) growth sector(s) development;
- (d) tourism development;
- (e) entrepreneurial ecosystem growth;
- (f) economic data/ decision support;
- (g) economic infrastructure development;
- (h) municipal economic development; and

- (i) stakeholder relations, ecosystem development and private sector development.

4.3 Other Services and Programs

In addition to the Core Services and Programs, the Agency may provide such Other Services and Programs to Members or other persons as the Agency Board may approve.

4.4 Prioritize Use of Regional Facilities

The Agency shall prioritize the promotion and use of those assets and venues that are classified as a “regional facility” under the *Greater Saint John Regional Facilities Commission Act*, S.N.B. 2016, c. 101.

ARTICLE 5 **FUNDING AND FINANCIAL MATTERS**

5.1 Strategic Plan

The Agency shall, on a four year cycle, submit to the Members for approval, a strategic plan setting out, for such period, the strategic goals and objectives for the Agency, including anticipated measurable outcomes together with a viable Funding Plan, with the first Strategic Plan to be approved by the Agency Board and the Members on or before August 1st, 2021, or a later date otherwise unanimously agreed to by the Members.

5.2 Municipal Funding for Core Services and Programs and Other Services and Programs

- (a) Subject to Section 8.1 and any Funding Agreement entered into with a Member, Members shall contribute to the operating costs of the Agency for the fiscal years beginning in 2021 and up to and including 2025 (the “**Initial Funding Period**”) in the amounts set out in Schedule 5.1, with such funds to be used by the Agency for the provision of the Core Services and Programs and Other Services and Programs in accordance with the Operating Budget.
- (b) The amounts to be paid or remitted to the Agency under Schedule 5.1 do not include HST based on the Agency being a para-municipal organization. Should the Agency not be classified as a para-municipal organization for HST purposes, the contributions agreed to be paid to the Agency by the Member shall be reduced to 95.89% of the otherwise agreed amount and HST shall be added to these reduced amounts. Should the rate of HST or municipal HST rebate amounts change, the reduction to the otherwise agreed amount above, shall be adjusted accordingly such that the Member's total cost including non-refundable HST is the Total Operating Grant included in Schedule 5.1.
- (c) Following the Initial Funding Period, the annual municipal government funding to be provided by the Members each year shall be based on a funding formula to be agreed between the Agency and the Members.

5.3 Accommodation Levy

- (a) As contemplated by the Prospectus, each of the Members agree that they shall use their best efforts to enact through the legislated process, on or before

December 31st, 2022, a by-law under section 101.1 of the *Local Governance Act*, S.N.B. 2017, c. 18 consistent with the requirements of this Section 5.3 providing the collection of a 3.5% levy against the purchase price charged to any guest of any premises operated to provide, for remuneration, temporary sleeping accommodation for the public for a continuous period not exceeding 31 days, and includes hotels, motels, inns, bed and breakfasts, resorts, hostels, campgrounds consisting of tents, yurts, cabins and trailer sites, buildings owned or operated by a post-secondary institution, any other facility or building which contains rooms offered as accommodations or rental units and dwelling units that are offered as lodgings.

- (b) The Members further agree that the proceeds of the Accommodation Levy shall be transferred to the Agency, less an agreed to five percent (5%) administration fee. By no later than December 31st, 2022, the Agency, or a third party as unanimously agreed to by the Members, shall begin to administer all aspects of the Accommodation Levy with the permission of and to the satisfaction of the Members in a manner consistent with the Members' by-laws enacted in accordance with this Section 5.3 and shall retain not more than a five percent (5%) administration fee for providing said administration services. Should the responsibility of administering the Accommodation Levy under the by-laws be transferred to the Agency, or a third party, pursuant to the terms hereof, Members shall cease retaining a five percent (5%) administration fee upon the transfer of such responsibility to the Agency or such third party. If the Agency is not permitted or is unable to assume such administrative responsibilities then the Members commit to explore alternative options.
- (c) Each of the Members shall take all reasonable steps to give effect to and enforce their Accommodation Levy by-law .
- (d) If any Member does not enact an Accommodation Levy bylaw as contemplated under this Section 5.3 for any reason, that Member will be afforded the option to provide additional funds directly to the Agency in an amount, as agreed to by the Members, that equals to the estimated annual Accommodation Levy that would have been collected by it had it enacted such a by-law. In the event that the Member does not elect to contribute such additional funds:
 - (i) the contributing Members may by majority vote among themselves elect to exclude that Member from any activities of the Agency funded by, or any benefits associated with, the Accommodation Levy resources, including but not limited to, any strategic discussions related to tourism investments, any application of funds or resources arising out of Accommodation Levy, any regional tourism initiatives and any tourism related advertising; and
 - (ii) each of the contributing Members may negotiate among themselves and reach an agreement on alternative approaches with respect to the application of the Accommodation Levy or may, in their sole discretion, elect to withhold some or all of their Accommodation Levy contributions from the Agency or cancel the Agency's or any third party's right to administer the Accommodation Levy.

5.4 No Change in Funding Obligations Without Consent

Notwithstanding any other provision of this Agreement, no decision of the Agency or the Members shall have the effect of changing the funding obligations of any Member, including adopting any Funding Plan to come into effect after 2025 applicable to such Member, without the affirmative consent of such Member.

5.5 Other Funding

Financial participation of the Federal and Provincial governments or any other sources, including the private sector, may be sought from time to time for projects that are consistent with the purpose and objects of the Agency.

The Agency shall work with the Province, using best efforts to secure financial participation directly from the LSDs within the Region as contemplated in the Prospectus.

5.6 Budgets

On or before September 15th, in each year, the Agency shall submit to the Agency Board a Capital Budget and an Operating Budget for approval by the Agency Board, for the ensuing year.

5.7 KPIs

The Agency shall on or before August 1st, 2021, or a later date otherwise unanimously agreed to by the Members, develop and obtain Members' approval for KPIs against which the performance of the Agency shall be measured.

It is acknowledged by the Agency and the Members that the performance of the Agency, as measured against the KPIs, shall be a critical component to evaluating the effectiveness of the Agency and the Members' satisfaction with the Agency.

5.8 Report

The Agency shall provide to each Member:

- (a) on a quarterly basis within 30 days of the end of each fiscal quarter, unaudited financial statements for the period along with a report on performance of the Agency against the KPIs during such period;
- (b) on an annual basis by the end of February of each year, an annual report including
 - (i) audited financial statements;
 - (ii) a report on the performance of the Agency including achievements against the KPIs and the Strategic Plan;
- (c) such other reports or presentations to municipal councils as the Members may reasonably request in consultation with the Board Chair and approved by the Agency Board.

5.9 Member Audit Rights

Each Member shall have the right from time to time, at its sole expense, to undertake a performance audit of the Agency in respect of its compliance with the terms of this Agreement and any Funding Agreement between the Agency and the Member, the Agency's internal controls and the economy, efficiency and effectiveness of the Agency in carrying out its objectives and for such purpose the person appointed by the Member to carry out the performance audit shall have access to all relevant records of the Agency and shall be allowed reasonable access to all staff employed by the Agency

5.10 Annual Meeting

The Agency shall call an annual meeting of Members in accordance with the provisions of the *Act* at which meeting the Chief Executive Officer of the Agency and the Board Chair shall be available to answer questions concerning Agency performance.

5.11 Financing and Borrowing

Any financing or borrowing required by the Agency from time to time shall be raised from such sources and on such terms as may be approved by the Members pursuant to Section 3.13(a)(v).

**ARTICLE 6
INSURANCE****6.1 Maintain Insurance**

The Agency shall at all times maintain in full force and effect insurance, including property and liability insurance and insurance covering errors and omissions, in appropriate amounts and for appropriate risks as would be considered prudent for similar businesses including, without limitation, coverage in accordance with the particulars set out below, such insurance coverage to be funded by, and shall be an expense of the Agency. All policies shall be reviewed by the Agency Board annually and shall not be cancelled or materially amended by the Agency without the prior written approval of the Agency Board. The particulars of such coverage shall be as follows:

- (a) directors and officers liability insurance in such amount as the Agency Board shall from time to time determine acting reasonably;
- (b) general liability insurance coverage, including personal injury, and accidents occurring on its private property, or on premises leased or otherwise controlled by the Agency, in such amounts as determined by the Agency Board; and
- (c) errors and omissions insurance in such amount as the Agency Board shall from time to time determine acting reasonably.

**ARTICLE 7
ASSIGNMENT; ADMISSION OF NEW MEMBERS****7.1 No Assignment by Member**

A Member may not sell, assign, transfer, pledge, mortgage or otherwise dispose of, whether by merger, operation of law or otherwise all or any of its Interest to any Person.

7.2 New Member

No other Person shall be admitted as a member of the Agency or re-admitted as a member of the Agency after having become a Withdrawn Member, unless:

- (a) it is a Municipality;
- (b) it has the affirmative consent of each Member; and
- (c) it becomes a party to this Agreement by executing an accession agreement in such form as is acceptable to the Members.

7.3 St. Martins or LSDs within the Region

Subject to Section 7.2 hereof, as long as it is unanimously agreed to by the Members, the Members and the Agency Board, shall be free to determine how best to involve St. Martins and the LSDs within the Region in the Agency's activities.

ARTICLE 8
WITHDRAWAL BY MEMBER

8.1 Withdrawal by Member

A Member may withdraw from the Agency:

- (a) on December 31st, 2023 due to any event or instance of Material Underperformance provided that:
 - (i) in order for a Member to withdraw from the Agency pursuant to paragraph (a) above, the Member must provide written notice of such withdrawal to the Agency and to the other Members by not later than sixty (60) days following the receipt by the Member from the Agency of the Agency's annual report for the operating year comprising January 1st, 2022 until December 31st, 2022, inclusive; and
 - (ii) an event or instance of Material Underperformance shall include, but not be limited to, any of the following:
 - (A) a failure on the part of the Agency to adhere to the terms of the Strategic Plan, as approved by the Members in accordance with the terms of this Agreement;
 - (B) a failure on the part of the Agency to attain a minimum achievement level of seventy percent (70%) for eighty percent (80%) of the KPIs, as approved by the Members in accordance with the terms of this Agreement;
 - (C) a failure on the part of the Agency or any Member to adhere to any term of this Agreement considered to be major or significant;
 - (D) a failure on the part of the Agency or any Member to adhere to any term of a bilateral Funding Agreement between the Agency and a Member considered to be major or significant;

- (E) a failure on the part of the Agency to develop and/or follow financial policies that respect generally accepted accounting principles (GAAP) or statutory/regulatory requirements that apply to the governance, operation, administration or oversight of the Agency;
- (b) upon a material breach by the Agency of any of its obligations under the Agreement or any Funding Agreement between the Member and the Agency if the Agency has failed to remedy such breach within 30 days of the Member providing notice in writing of the breach to the Agency and the other Members. For the purposes of this Section and without limiting the scope of Material Underperformance in paragraph 8.1(a)(ii), material breach includes, without limitation:
 - (i) failure by the Agency to adopt and approve a Strategic Plan, as required under Section 5.1;
 - (ii) failure by the Agency to adopt and approve KPIs, as required under Section 5.7, and
 - (iii) failure by the Agency to perform any obligations specific to the Member, as outlined in the Funding Agreement entered into between the Agency and that Member;
- (c) immediately upon the Agency making an assignment for the benefit of its creditors, being declared bankrupt or committing an act of bankruptcy, becoming insolvent, making a proposal or otherwise taking advantage of provisions for relief under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 or similar legislation in any jurisdiction, or any other type of insolvency proceedings being commenced by or against the Agency under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 or similar legislation.

8.2 Expulsion of Member

If a Member breaches its funding obligations under this Agreement or any Funding Agreement entered into between the Member and the Agency, including any failure to adopt an accommodation levy as provided for under Section 5.3 and disburse such amounts to the Agency, which breach has not been remedied within 30 days of the Agency delivering notice in writing to the Member, such Member may by majority vote of the Members other than the defaulting Member be expelled in which case such expulsion shall be effective upon delivery of notice in writing to the Member advising it of the vote of the Members to expel.

8.3 Consequences of Withdrawal or Expulsion

Upon withdrawal or expulsion of a Member:

- (a) the Withdrawn Member shall be deemed to have resigned as a Member and shall have no further rights or obligations as a Member under this Agreement except as provided under this Section 8.3;
- (b) subject to Section 8.3(c), the Withdrawn Member shall be responsible for payment of its municipal funding obligations in accordance with Section 5.1 up to

and including the later of the Withdrawal Date and the fiscal year end of the Agency following the notice of withdrawal or expulsion.

- (c) a Withdrawn Member shall not be responsible for payment of its municipal funding obligations in accordance with Section 5.1 if the Agency has been wound up as of the Withdrawal Date.
- (d) upon receipt of the Withdrawal Notice, the Agency shall cooperate with the Withdrawn Member in order to:
 - (i) subject to the Withdrawn Member's obligations under Section 8.3(b), return to the Member any unused funds provided by the withdrawing Member pursuant to this Agreement or any applicable Funding Agreement on a proportionate basis relative to overall funding received from all Members provided that amounts provided by Members pursuant to Section 5.2 and 5.3 shall be treated, and the proportion to be returned to the withdrawing Member calculated, separately. Notwithstanding the foregoing, the Agency shall be entitled to retain such funds as may be necessary to cover the Withdrawn Member's proportionate share or all obligations incurred by the Agency prior to the effective date of such withdrawal;
 - (ii) transfer any Transferred Property back to the Member to the extent that the same remains in the possession and control of the Agency;
 - (iii) otherwise facilitate the withdrawal of the Member.
- (e) any Director or Directors nominated by the Withdrawn Member shall be deemed to have resigned from the Agency Board effective as of the Withdrawal Date and the remaining Members shall be entitled to remove such Director.

ARTICLE 9

CONFIDENTIAL INFORMATION

9.1 Confidential Information

The Agency shall develop a policy which shall guide the determination of which records and information held or created by the Agency are to be treated as confidential ("Confidential Information").

Each Party agrees that it shall not at any time, whether then a Member of the Agency or not, directly or indirectly disclose Confidential Information to any Person (other than the Party's own professional advisors on a need-to-know basis or another Party hereto) not authorized by the Parties hereto to receive such information or use such Confidential Information for any purpose unrelated to the Agency or this Agreement.

For greater certainty, nothing in this Agreement imposes liability upon any Party for making disclosure of Confidential Information where such disclosure:

- (i) is required by law or court order; or
- (ii) is occasioned through theft, lawful or unlawful search and seizure or through any other means beyond the reasonable control of the Party.

9.2 **Right to Information and Protection of Privacy Act**

Each of the Parties acknowledge that each Member is subject to the provisions of the *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6 and notwithstanding Section 9.1 and any information relating to the Agency in their possession or control is subject to disclosure under that statute.

ARTICLE 10 **DISPUTE RESOLUTION**

10.1 **Best Endeavours to Settle Disputes**

If any controversy, dispute, claim, question or difference (a "Dispute") arises with respect to this Agreement or its existence, interpretation, performance, enforcement, breach, termination or validity, then the Parties involved in the Dispute shall use reasonable efforts to attempt to resolve the Dispute in a collaborative manner as follows:

- (a) through negotiation between the Chief Executive Officer and the manager or equivalent chief administrative employee of the Member or Members involved;
- (b) if, at any time, the dispute remains unresolved, any Party involved in the Dispute may initiate mediation in respect of the Dispute by providing written notice to the other Parties involved to request mediation. Such a request shall include the names of three (3) proposed mediators and if the Parties involved cannot agree on a mediator, either from among the three (3) proposed names or otherwise, within ten (10) Business Days of the receipt of such notice, then the Dispute shall be resolved through arbitration in accordance with Section 10.2;
- (c) the mediator's costs and fees shall be borne equally by the Parties involved; and
- (d) the mediator and the Parties involved shall hold mediation within ten (10) Business Days of the mediator's appointment;
- (e) if mediation is not successful in resolving the Dispute the matter shall be resolved through arbitration in accordance with Section 10.2.

It is acknowledged and agreed by the Agency and the Members that this ARTICLE 10 shall have no application to any Dispute arising under ARTICLE 8 of this Agreement.

10.2 **Arbitration**

- (a) If the Parties involved in the Dispute do not reach a resolution of the Dispute pursuant to Section 10.1 within 30 days after written notice of the Dispute has been given by one to the other(s), the Dispute shall be settled by final and binding arbitration in accordance with the provisions of the *Arbitration Act*, S.N.B. 2014, c. 100 as in effect from time to time (the "Arbitration Act").
- (b) Any Party involved in the Dispute may initiate such arbitration by giving a notice to arbitrate to the other(s) setting out the nature of the Dispute the amount involved, if any, and the remedy sought.
- (c) Unless the Parties agree to arbitration by a sole arbitrator, the arbitration shall be carried out by a tribunal of three arbitrators, one appointed by each Party to the

Dispute (and for such purposes, Parties having a common interest shall be treated as a single Party), and the third arbitrator, who shall be chairperson of the tribunal who shall be appointed by the first two appointed arbitrators.

- (d) The arbitration shall be private and confidential and unless otherwise required by law, all hearings, meetings, and communications shall be private and confidential as between the participants and the arbitrators.
- (e) The arbitration hearing shall take place, at a location to be determined by the arbitrators in consultation with the parties thereto.
- (f) The applicable law of the arbitration shall be New Brunswick law.
- (g) The arbitration shall be conducted in English.
- (h) except for any action necessary to enforce the award of the arbitrator, or any actions initiated by any insurer of any Party involved, the provisions of this Section 10.2 are a complete defence to any suit, action nor other proceeding instituted in any court or before any administrative tribunal with respect to the subject matter of the Dispute.
- (i) Unless otherwise required by law, the decision of the arbitrators or sole arbitrator, if applicable, shall be private and confidential between the Members involved in the Dispute and shall not be subject to appeal except to the extent permitted by the *Arbitration Act*, S.N.B. 2014, c. 100.

10.3 Time Limits

The time limits referred to in this ARTICLE 10 may be abridged or extended by mutual agreement among the Parties involved in the Dispute.

ARTICLE 11 MISCELLANEOUS

11.1 Term; Termination

This Agreement shall first come into force and effect as of the date hereof and, except as provided below, shall continue in force until the date on which this Agreement is terminated by written agreement of all Members. A termination of this Agreement or any provision of this Agreement shall not affect or prejudice any provisions hereof which are expressed to survive such termination or any rights or obligations which have accrued or arisen under this Agreement prior to the time of termination, and such rights and obligations shall survive the termination of this Agreement.

11.2 Implementation

Each Member agrees to exercise its influence in respect of the Agency and each Member agrees to sign all such documents and to do and perform all such other acts or things, as may be necessary or desirable from time to time in order to give full effect to the provisions and intent of this Agreement and to ensure that the provisions of this Agreement shall govern the affairs of the Agency to the maximum extent permitted by law.

11.3 Notices

- (a) All notices, requests, claims, demands and other communications hereunder must be in writing and are sufficiently given if delivered personally, by registered mail (postage pre-paid, return receipt requested), by a recognized overnight delivery service or by facsimile, email or other electronic transmission (provided however, that email or other electronic transmission is not sufficient delivery if no email address is included herein), directed as follows (or, in the case of any Member, to such other address as the Agency shall have on record for such Member):
- (i) to City of Saint John:
15 Market Square
PO Box 1971
Saint John, NB E2L 4L1
Attention: Office of the City Manager
E-mail: jonahon.taylor@saintjohn.ca
Phone: 1.506.721.4983
 - (ii) to Grand Bay-Westfield
609 River Valley Drive
PO Box 3001
Grand Bay-Westfield, NB E5K 4V3
Attention: Office of the CAO
E-mail: john@towngbw.ca
Phone: 1.506.738.6425
 - (iii) to Hampton
648 Main St
PO Box 1066
Hampton, NB E5N 8H1
Attention: Office of the CAO
E-mail: richard.malone@townofhampton.ca
Phone: 1.506.832.6065
 - (iv) to Quispamsis:
12 Landing Court
Quispamsis, NB E2E 4R2
Attention: Office of the CAO
E-mail: sdeuville@quispamsis.ca
Phone: 1.506.333.1130
 - (v) to Rothesay
70 Hampton Road
Rothesay, NB E2E 5L5
Attention: Office of the Town Clerk
E-mail:
Phone: 506.848.6600
 - (vi) to the New Economic Development Agency of Greater Saint John
40 King Street

Saint John, NB E2L 1G3
Attention: Office of the Chair
E-mail:
Phone: 1.506.658.2877

- (b) Each such notice, request, claim, demand or other communication is deemed to have been received upon the earliest to occur of (i) actual delivery, (ii) in the case of registered mail, 5 Business Days after being deposited in the mail addressed as aforesaid, (iii) in the case of facsimile, e-mail or other electronic transmission, on the next Business Day following the date of transmission (provided that the original of such notice, request, claim, demand or other communication is promptly sent by overnight delivery service as aforesaid) and (iv) in the case of overnight delivery service, one Business Day after being sent addressed as aforesaid. The Parties may designate additional addresses, facsimile numbers or e-mail addresses for particular communications as required from time to time, and may change any address, facsimile number or e-mail address upon 5 Business Days' prior notice thereof.

11.4 Enforceability

Subject to the provisions hereof, this Agreement shall be binding on and enforceable by the Parties and their respective successors (including any corporation continuing from an amalgamation involving a Party).

11.5 Force Majeure

It is acknowledged and agreed that no party under this Agreement shall be held responsible for damages caused by delay or failure to perform its undertakings under the terms of the Agreement when the delay or failure is due to fires, strikes, floods, acts of God, pandemic, lawful acts of public authorities or delays or defaults caused by common carriers, which cannot be reasonably foreseen or provided against. A "Force Majeure Event" includes but is not limited to any war, invasion, insurrection, armed conflict, act of foreign enemy, revolution, terrorist act, pandemic, interference by military authorities, nuclear explosion, contamination by ionizing radiation, epidemic, quarantine restriction, flood, earthquake or hurricane that prevents, delays or interrupts the performance of any obligation under this Agreement, other than any obligation to pay any money, and provided such event does not occur by reason of:

- (a) the negligence of the party relying on the Force Majeure Event (or those for whom it is in law responsible); or
- (b) any act or omission of the party relying on the Force Majeure Event (or those for whom it is in law responsible) that is in breach of the provisions of this Agreement.

11.6 Remedies

Each Party acknowledges that a violation of any provision of this Agreement shall result in immediate and irreparable harm to the other Parties which cannot be compensated adequately by recovery of damages alone and agrees that, in the event of any such violation or threatened violation, the other Parties shall, in addition to any other rights or

remedies available at law, in equity or otherwise, be entitled to temporary and permanent injunctive relief, specific performance and other equitable remedies.

11.7 Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

City of Saint John

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Grand Bay - Westfield

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Hampton

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Quispamsis

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Rothesay

By: _____

Name: Dr. Nancy Grant

Title: Mayor

By: _____

Name: Mary Jane Banks

Title: Clerk

**New Regional Economic Development Agency
for Greater Saint John**

By: _____

Name: Cynthia Goodwin

Title: Chairperson

By: _____

Name:

Schedule A

Prospectus

Collaborating to ensure the municipalities in Greater Saint John will prosper in the 2020s

A new economic development model

Prospectus

Prepared for:

City of Saint John

Town of Quispamsis

Town of Rothesay

Town of Grand Bay-Westfield

Town of Hampton

Village of St. Martins

Submitted by:

Economic Development Advisory Council

July 2020

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1. Introduction/Mandate

Background

In the Spring 2019, the City of Saint John convened a group of business leaders and economic development stakeholders to advise the city on how to maximize the value of its investment in economic development (hereafter referred to as the Advisory Council). The City was concerned that despite spending a considerable amount on economic development each year, tax base growth has been anemic as has been organic growth in tax revenues. The city's goal is to bring annual tax base growth back to at least two percent per year.

After considerable research and deliberations, the Advisory Council recommended a new way forward. The Advisory Council proposed a brand-new, innovative approach and mindset that aligns the key players in the ecosystem focused on economic growth. This new regionally funded model will have a budget and the scale to compete with the other larger urban centres across Atlantic Canada and beyond.

The development of a new consolidated economic development model IS NOT about achieving cost efficiencies. The focus is GROWTH. This new economic development model will be funded equitably by all the municipalities in the Saint John Census Metropolitan Area (CMA) and will provide the impetus for a broad-based economic development program to increase the population to ensure there are enough workers to meet labour demand, expand strategic industries, foster new entrepreneurs and build economic development infrastructure that drives growth.

In August 2019, the Advisory Council prepared a report entitled "Economic Development Model and Framework for Growth in Greater Saint John" that detailed the approach to the new model, funding and governance.

David Campbell from Jupia Consultants and Cathy Simpson from The CASM Group were retained to undertake a process meant to conclude with agreement and support for the new, consolidated economic development model and single entity. David and Cathy have prepared this prospectus under the guidance of the Advisory Council.

This is an ideal time to be embarking on this new collaborative approach to economic development for Greater Saint John. The City of Saint John will continue to invest at the same level over the next five years and the new funding from the partner municipalities and LSDs will provide much needed incremental funding to support priorities such as people attraction which will be critical to move our region forward.

Economic Development Advisory Council

Paulette Hicks – Delta Saint John

Francis Power – Intangible Power

Dan Doiron - UNBSJ

Chris MacDonald – JD Irving

Andrew Carson – Irving Oil

Stephen Lund – GNB/ONB

Summary of the proposed regional economic development model



Objectives and scope (Section 2)

A brand-new, innovative approach to regional economic development that is equitably funded by all municipalities, aligns the key players in the ecosystem focused on economic growth, and has a budget and the scale to compete with the other larger urban centres across Atlantic Canada and beyond.



Functions of the new economic development organization (Section 3)

- Community marketing/promotion/branding
- People attraction
- Growth sector(s) development including tourism
- Entrepreneurship ecosystem growth and development
- Economic data/decision support
- Economic infrastructure development
- Stakeholder relations/ecosystem development/private sector collaboration



Funding the new economic development organization (Section 4)

Equitable funding from all municipalities (including LSDs) (evolving to per capita municipal funding over time). Over the five years, core municipal government funding will be amplified by an estimated \$7.6 million from the accommodation levy and \$10.3 million from provincial and federal government funding as well as the private sector. Specific municipal funding levels are:

- Saint John: \$1.7 million in 2021 and 2022 rising to \$1.9 million/year through 2025.
- Rothesay: \$148,000 in 2021 rising to \$283,000 by 2025.
- Quispamsis: \$168,000 in 2021 rising to \$454,000 by 2025.
- Grand Bay-Westfield: \$36,000 in 2021 rising to \$118,000 by 2025.
- Hampton: \$31,000 in 2021 rising to \$102,000 by 2025.
- St. Martins/others: TBD, initial commitment of \$500,000 made by GNB.



Board of directors and governance (Section 5)

The board will consist of Inside Municipal/Government Directors and Outside Private Sector Directors. The Chair will be an outside director. The inside directors will be appointed by the municipalities from senior staff members; primarily the city and/or town managers. No elected reps. will sit on the board.

- Municipalities (the shareholders) will have preferred shareholder status and will have to approve certain essential and material decision of the board such as: strategic goals and objectives; new funding arrangements of a material and/or directive nature; organization bylaws; and annual business plans that vary in a material way from the approved strategic plans.
- The board will be made up of 14-15 directors: 7-8 outside private sector directors, 6 inside municipal directors, and potentially 1 provincial government nominated director.
- Preferred shareholder representation will include: 2 from the City of Saint John – with four (4) board votes and one each from the four other municipalities – with one vote each.
- The board executive will consist of a Chair, 1 or 2 Vice Chairs and a Treasurer (all outside directors). The Saint John City Manager will sit on the executive committee *ex officio* (i.e. not voting).



Transition (Section 6)

- Early July 2020: New model voted on by municipal councils.
- July 2020: Transition committee of six community leaders to be set up as recommended by the five municipalities – to recruit the new board Chair/initial board of directors.
- August 2020: Firm to facilitate the process of Chief Economic Development Officer recruitment.
- Fall 2020: Transition activities take place including working with GNB on the funding formula for LSDs.
- October 2020: Municipal government priorities established.
- December 2020: KPIs developed and approved by councils.

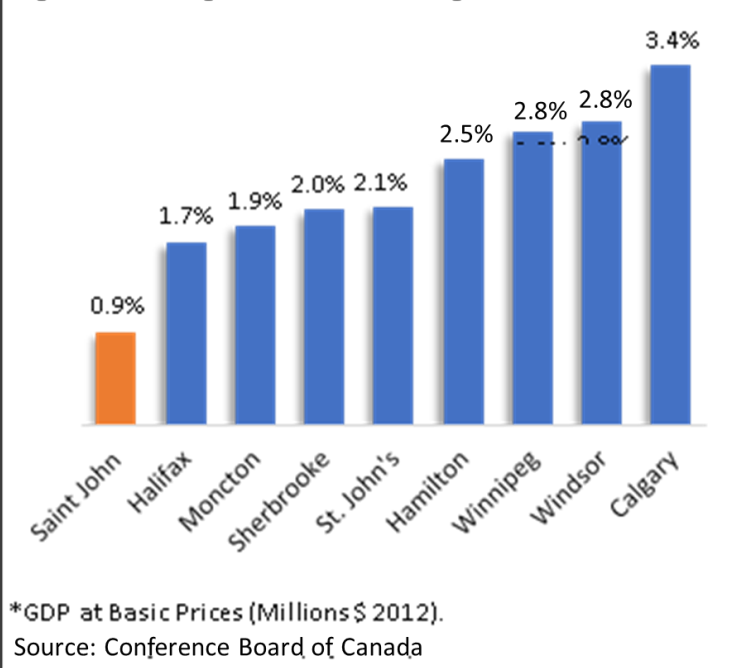
2. Why now?

2.1 Saint John is at a critical

juncture In 2020, at the start of a new decade, the Advisory Council believes the City of Saint John and surrounding municipalities are at a critical and exciting juncture. The previous decade has been a time of turbulence for the Saint John CMA economy. It ranked 33rd out of 35 CMAs across Canada for population growth between 2009 and 2019 and 31st for workforce growth (a 0.7% increase over the decade).

On the broadest measure of economic growth, the Saint John CMA real gross domestic product (GDP) expanded by an average of only 0.9% per year between 2009 and 2019 which was one of the worst GDP growth rates among Canada's 35 CMAs (Figure 1).

Figure 1: Average annual real GDP growth (2009-2019)*



And there are currently a number of challenges that could impact the region's ability to grow in the years ahead. **First**, the Saint John CMA has a demographic challenge. Among the 35 CMAs, for every 100 deaths each year there are 150 births. In other words, the natural population growth rate is positive. By contrast, in the Saint John CMA there are only 85 births per 100 deaths or a negative natural birth rate. Further, there has been a 40% increase in the number of people in the Saint John workforce over the age of 55 in recent years and more than 15,000 will be heading towards retirement in the next decade or so. Over 40% of the region's entrepreneurs (self-employed) are over the age of 55. The region needs a new and ambitious population attraction strategy.

Second, the decline in economic activity in the Saint John region over the past decade is impacting municipal finances. As GDP growth has declined so has average annual municipal tax revenue growth – down 44% since 2009¹. The region needs to boost economic growth to help grow municipal tax revenues without the need to raise tax rates.

Third, the Saint John CMA is more exposed to global competition than many other urban centres in Canada. Upwards of 80% of the value of goods exports from New Brunswick either ships through Saint John or is controlled by Saint John-based companies. This exposure to global markets is very good for New Brunswick as it results in billions of dollars flowing into the province each year. But it means Saint John is particularly vulnerable to global market conditions and competition.

¹ Based on the average combined annual revenue growth among the five largest municipalities in the Saint John CMA between 2002-2008 compared to 2009-2019.

Fourth, the Saint John region historically has been reliant on large projects or big new industries to drive growth. From shipbuilding to energy, the regional economy has tended to grow in spurts. Now there is currently no large new industry or project on the horizon². This means if the economy is to grow it will need broad-based contribution from sectors such as manufacturing, ICT, finance, professional services, tourism, etc.

Fifth, there is some concern that Saint John has a brand problem. It needs to be positioned as a place where entrepreneurs thrive, and people can have great careers combined with a high quality of life. It needs to be known as a place where industries are supported and can succeed. We need more focus on all the things that are great about our region even as we work to address our challenges.

Sixth, new technology and business processes are set to have a profound impact on the global economy in the coming years. Saint John's local and export-focused industries need to embrace change and adapt for the new realities.

In short, the competition for new business investment, people attraction and the fostering of new entrepreneurs has never been more pronounced than it is today.

The Advisory Council does not believe that deploying a new, consolidated economic development model for the Saint John CMA will singlehandedly change the trajectory of the regional economy. The Council believes a reinvigorated economic development model with strong support from the private sector aligned with provincial and federal government economic development and people attraction efforts will ensure the region transforms and is set up for growth in the 2020s.

2.2 Reason for optimism

Despite the aforementioned challenges, there is much reason for optimism. Collectively, we see a new way forward. The region is home to a number of global companies that are leaders in their respective industries and are significant employers. A number of the region's important industries are poised for growth including ICT, insurance, energy, transportation, tourism and health care. The Saint John region has many institutions that could drive new economic growth including its post-secondary education sector, port and airport.

And on the crucial issue of people attraction, Saint John offers a strong value proposition. It offers reasonable housing costs, short commute times and relatively low crime rates. Residents benefit from a mix of urban and rural amenities.

But **optimism is not a strategy**. The region must focus its economic development efforts on incremental growth leveraging its unique assets, attributes and strengths.

² A notable exception could be nuclear energy. If this sector takes root in New Brunswick it could be very beneficial to the Saint John economy.

2.3 Why the Saint John CMA?

The Saint John Census Metropolitan Area (CMA) is comprised of the City of Saint John, the towns of Rothesay, Quispamsis, Grand Bay-Westfield and Hampton as well as the Village of St. Martins. There are also 19,000+ people living in Local Service Districts (LSDs) in the CMA area (Table 1). As defined by Statistics Canada, these communities are all part of an integrated regional economy. Labour markets are integrated. Shopping and services markets are integrated. In the longer run, the destinies of these communities are intertwined and therefore they ideally should be collaborating on efforts to foster economic development and people attraction.

Table 1: Estimated 2019 population, municipalities included in the Saint John CMA

<u>Municipality:</u>	<u>Population</u>	<u>Change since 2016</u>	<u>Local service districts:</u>	<u>Population</u>	<u>Change since 2016</u>
Saint John	70,817	+2.5%	Simonds	3,970	+0.9%
Quispamsis	18,970	+1.8%	Kingston	2,981	+0.4%
Rothesay	11,940	+0.3%	Hampton	2,877	+0.4%
Grand Bay-Westfield	4,968	-1.5%	Westfield	2,052	+2.5%
Hampton	4,333	-0.7%	Norton	1,328	+0.5%
St. Martins	<u>287</u>	<u>+2.1%</u>	Upham	1,299	+0.4%
Six municipalities	111,315	+1.8%	Musquash	1,229	+0.8%
			St. Martins	1,181	+2.3%
			Greenwich	1,082	+0.4%
			Lepreau	748	+4.0%
			Petersville	674	-3.0%
			<u>Rothesay</u>	<u>347</u>	<u>+4.8%</u>
			LSDs - Total	19,768	+0.9%

Source: Statistics Canada. Table 17-1 -0142-01.

The total population in this economic zone is estimated to be 132,000 (2019). The Saint John CMA is the smallest metropolitan area by population east of Ontario and the fourth smallest across the country. This bolsters the case for greater regional collaboration. Even though the metropolitan area is small, by working together the regional municipalities will better be able to compete with larger urban centres.

Most municipalities small and large across Canada spend in the 1.0 to 2.0% of budget range on the economic development function. Some include tourism and other functions but very few across the country are not investing in economic development. The argument here is that by working together the communities within the Saint John CMA will maximize impact and be able to compete and win against other larger CMAs.

Not all of these LSDs may end up in the final decision about LSD participation in the regional economic development model. Some may be considered part of another region/zone. The determination of which LSDs are included will be decided during the negotiation process (See Section 6).

2.4 The Covid-19 pandemic

The Covid-19 pandemic has created a lot of uncertainty. It is not clear how long it will take for the regional economy and labour market to bounce back to pre-pandemic levels. As shown in Table 2, the negative impact on the employment situation was significant but actually the employment losses were less than in the average metropolitan area across the country buffered by government and large employers retaining staff and by the early exit from the lockdown which helped the employment figures in May.

Table 2: The impact of Covid-19 on the Saint John CMA labour market

<u>Labour force characteristics</u>	<u>May-19</u>	<u>May-20</u>	<u># change</u>	<u>% change</u>
Labour force	71,000	64,800	-6,200	-9%
Employment	66,700	57,600	-9,100	-14%
Unemployment	4,300	7,200	+2,900	+67%
Unemployment rate	6.1%	11.1%	+5.0	
Participation rate	66.6%	60.1%	-6.5	
Employment rate	62.6%	53.4%	-9.2	

Source: Statistics Canada Table: 14-10-0294-02.

Moving forward the pandemic effects could linger. Will local services return to pre-pandemic levels? How will the pandemic impact the region's critical export industries? There are concerns the toll on our exporters will continue to linger into 2021 and possibly well beyond. How will immigration and international student attraction be impacted? Tourism, which has been a bright spot in recent years, has a weak short- and medium-term outlook.

As a result of Covid-19, the Economic Development Advisory Council believes there *is even more impetus now* for the new Saint John economic development model. We will need to come out of this strong with a clear path forward. The new, integrated economic development approach will be an important part of this renewal.

3. What will the new organization do?

3.1 A new economic development direction for the Saint John CMA

In order to effectively compete in the 2020s, the consensus view of stakeholders is that the Saint John region requires a different model – a regional model that aligns and combines economic development, people attraction, infrastructure development, tourism development and related activities into a single organization with one board, one mandate, one leader (CEDO -Chief Economic Development Officer) and one budget. Fragmented spending and divergent municipal investment is holding back the potential to maximize returns on economic development investment in the region.

A recent paper published by the U.S.-based Brookings Institution concluded that industrial development and labour markets happen in economic regions (metro areas) and not just in individual cities or towns and therefore metropolitan areas are the “right scale for economic strategies and governance”. Based on numerous examples across the United States, Brookings concludes “regions benefit from having a backbone organization coordinating economic development activities and bringing actors together.”

This is exactly the proposed role for the new, consolidated economic development organization for the Saint John CMA. It will be a backbone organization concerned with all aspects of economic growth in the Saint John region – not just on the delivery of specific services. It will also play a coordinating role with its many local, provincial and federal government partners.

A symbiotic economic development relationship: The five municipalities and LSDs

The City of Saint John is the primary industrial and commercial economic engine for the regional economy. Growth in the city’s manufacturing, transportation, information technology and other sectors benefits the regional economy by boosting the population settling around the CMA and by increasing consumer spending in all of the communities. It also helps create secondary commercial development in the surrounding municipalities to meet the growing local demand for goods and services.

3.2 The functions of the new economic development organization

It will be the responsibility of the new private sector-led Board of Directors and the CEDO to establish specific activities and the budget associated with each activity, subject to alignment with municipal government shareholder priorities. As input to this new Board of Directors, the feedback from the municipalities, other stakeholders and the Advisory Council focused on a number of key functions that will be important. These are summarized in the table below.

It is very important to note that the incremental funding support from the regional municipalities and LSDs will ensure there is proper funding for activities such as people attraction, community promotion and analysis of the regional economy. These functions, and others, are not properly funded today relative to other competitor jurisdictions.

Function:	Description:
Community marketing/promotion / branding	Much discussion and education has occurred around embracing place branding and the benefits of this mindset and focus for the region. We need to market and sell the Saint John region to attract investment, entrepreneurs, people, students, R&D and visitors.
People attraction	The new entity will be engaged in a focused and increased effort to attract people to the region including immigrants, persons living elsewhere in Canada, national and international post-secondary education (PSE) students, etc. The primary focus will be on attracting people into specific jobs on offer and entrepreneurial opportunities. We will look to boost international student enrolment, again, with a focus on programs where there is a stronger likelihood of retention in the community after graduation. It is important to point out that other organizations are involved (e.g. UNB SJ, NBCC, etc.) – the new entity will lead on this initiative for the region and will ensure alignment with other entities. There must be an increased emphasis on this function.
Growth sector(s) development	We must develop the value proposition for specific growth sector opportunities and promote these opportunities to attract local, national and international investment. How do we leverage our health research assets, our strengths in ICT, finance and insurance, ocean-based shipping, energy, etc. Some of this work is currently being done but the new entity needs to increase this focus. The new entity will lead on this initiative for the region and will ensure alignment of effort with provincial and federal government strategies and private sector partners.
Tourism development	Tourism development will be a pillar of this new organization. Because of the accommodations levy and municipal commitment, a large portion of the budget will focus on this sector. The new entity will put even more focus on tourism asset development (i.e. investments that boost the tourism capacity in the region).
Entrepreneurial ecosystem growth and development	This is a core function of regional economic development agencies across Canada. It can involve startup incubation spaces, new company acceleration programming, support services, partnerships with public sector enterprises to incubate new research-based startups, attracting startup capital, small business loan funding programs, and more. The focus will be on innovation and growth sector opportunities with an increased emphasis on scaling up company opportunities.
Economic data/ decision support	The new entity must be the go-to organization for data, research and insight into the Saint John CMA economy and population. More emphasis on KPI's, results and accountability for financial success to the major investors is a must.

Function:	Description:
Economic infrastructure development	<p>The new entity will work on large economic infrastructure (e.g. Fundy Quay, Innovation District, etc.) in the City of Saint John and in the surrounding municipalities. It will support the development of the value proposition for investment in related projects and will foster strong relationships with real estate-related investors and developers both locally and nationally.</p> <p>The new economic development organization will focus on the region as a whole and will look broadly at land development and how to leverage existing assets in all municipalities.</p> <p>It will manage several key regional economic development assets including the three industrial parks and the barge terminal. There is no expectation the new economic development organization will own any buildings or land. The reason why the Saint John industrial parks and barge terminal were included in the responsibilities of the new organization was that they are important economic assets that will be promoted for economic development and new company investment in and will be beneficial to the whole region as workers, and in many cases owners, reside across the region.</p> <p>There will be commercial/industrial real estate developments across the region that will be supported by the regional economic development organization but any land sales, as one example, will accrue to the owner of the properties (public or private).</p>
Support for municipal economic development	<p>The organization will provide support for municipal-level economic development subject to the principle that regional economic development activities will benefit the entire region (new residents will be dispersed, new company investments will lead to spending across the region, etc.). At a high level, municipal support will include:</p> <ul style="list-style-type: none"> • Support for strategic economic development projects in each municipality. • Support for local entrepreneurs in each community (in conjunction with other provincial and federal service providers). • Support for tourism development in the municipalities. • Etc.
Stakeholder relations/ecosystem development/private sector collaboration	<p>This new entity will be at the centre of the economic development ecosystem in the Greater Saint John region. It will deliberately strengthen relationships with all key partners and ensure alignment of effort, the development of multi-organization projects and the ongoing sharing of information. This must include a renewed engagement with the private sector.</p>

3.3 Why a consolidated economic development organization?

The Advisory Council believes this new economic development entity for Greater Saint John will achieve greater results than the current model with multiple different organizations, leaders, and board of directors. In order to compete effectively in the 2020s, the new entity will be better positioned to:

What	Rationale:
Attract more municipal investment and leverage other funding sources	The new model will attract significant new funding from the various municipal governments in the region. As shown in Section 4 below, it is estimated \$4.7 million will be invested over the first five years of the new model from the other municipalities and LSDs, in addition to Saint John's contribution. It is anticipated that other government and private sector partners will be better engaged financially in the new model.
Drive success in key activity areas	The scale of the new entity will allow for increased investment in key focus areas. For example, currently the region is doing limited work to foster people attraction. The new model will have the capacity to significantly expand these efforts. The old, fragmented model had limited capacity to develop and analyze data to support decision making. The new model will have this capacity. Section 3.2 above provides a broad overview of the various focus areas of the new organization.
Optimize economic development spending and people attraction investment	In addition to being better positioned to attract funding from other government sources as well as the private sector, there will be cost savings as the disparate functions are consolidated into one organization (back office, management, overhead, aligned marketing and partner management to name a few).
Generate functional synergies	The new entity will benefit by bringing the various strengths from each function into one consolidated plan. The branding and expertise that has led to a significant boost in visitors in recent years will align with efforts to attract population. The expertise related to the development of larger economic infrastructure projects will align with efforts to attract investment to the region.
Focus on regional strengths, assets and attributes	In the Saint John CMA, the whole is greater than the sum of its parts. The new economic development entity will focus on leveraging the strengths, assets and attributes of the entire Greater Saint John region.
Align the economic development ecosystem	The new entity will be better positioned to align the activities of the other organizations involved in economic development and people attraction with provincial and federal partners.

What	Rationale:
Provide greater accountability for results	A single entity with a Chief Economic Development Officer (CEDO) and board of directors, aligning the work of local, provincial and national partners, will be better able to achieve results but also to be accountable for results. The challenge of a fragmented economic development model is the “that is not my responsibility” problem. The new entity will be able to identify and work on a wide range of activities that support economic growth and not be restricted to a few specific functions. Both the silo effect and work priority overlaps will be eliminated.

3.4 Staffing the new organization

The new organization will have in the range of 20-25 core staff supplemented by summer students and contract employees as needed. There are many talented staff working in EDGSJ, Discover SJ and Develop SJ and most will be integrated into the new organization. There will be some redundancies and staff efficiencies to be achieved through the amalgamation. The new board of directors and CEDO will be mandated to build the appropriate staffing and executive leadership model for the new organization.

4. Funding the new economic development model

The focus of this prospectus is on the core municipal funding of the new economic development entity and not on the other sources of funding. It is important to point out, however; that the new entity will be tasked with leveraging other sources of government funding where there is alignment with the goal of driving economic development and people attraction to the Saint John region. It will also be mandated to secure private sector funding support – to drive specific outcomes. As a result, securing core and stable municipal funding is critical to the ability to leverage other sources of funding and better ensure alignment of effort between the new entity and other partners in the region.

4.1 Fair and equitable funding

A fundamental principle of the new municipal government funding model is that all municipalities in the Saint John CMA are contributing equitably to the new entity.

The LSDs and economic development funding

The Local Service Districts (LSDs) located in the Saint John region are economically integrated into the regional economy in the same manner as the city and towns. **LSD funding support and participation in the governance of the new organization is considered to be crucial moving forward.** However, determining which LSDs should be included in the model and negotiating a separate funding agreement with each LSD would have been very problematic in the timeframe allotted.

The consulting team had ongoing discussions with the provincial government on the strategic importance of funding support for the new regional economic development model. The provincial government has committed \$500,000 over the first two years and has committed to work with the new entity on a funding formula for the LSDs that would see them financially support regional economic development out of their annual property taxes. The process of LSD integration into the funding and governance model will be a top priority of the new board of directors and leadership.

The Advisory Council realizes there are concurrent discussions in the region related to the funding and provision of other regional services. The Council recognizes the importance of these discussions and believes the negotiation and implementation of the new and innovative approach to economic development outlined in this document, supported by a fair and equitable funding formula, is a good example of how the area's municipalities can come together to develop and implement an important regional service.

4.2 The proposed municipal contributions

The City of Saint John

The City of Saint John has been investing a considerable amount into economic development in recent years. It is recommended this funding be allocated to the new, external economic development agency. The city's annual funding for the first two years of the five-year revenue forecast will be \$1.7 million. Starting in 2023 Saint John's contribution rises to \$1.9 million per year.

The city's continued commitment will ensure significantly more money will be invested into economic development so we can compete and win in the 2020s. Over the 2021 to 2025 period, the city's funding will leverage approximately \$4.7 million in other municipal funding and another \$18 million in other funding including the accommodation level, other levels of government and the private sector (Table 3).

Quispamsis, Rothesay, Grand Bay-Westfield and Hampton

Table 3 includes the proposed funding levels for the four towns from 2021 through 2025. The funding target by 2025 is the same as the original prospectus but the increases from 2021 through 2025 have been adjusted. The first year (2021) increase for the three municipalities that have been funding EDGSJ has been dropped to reflect uncertainty over municipal budgets post-Covid-19. Hampton's initial funding level in 2021 has also been proportionately reduced.

As was proposed in the original prospectus, the objective is to evolve to an equivalent per capita funding for the new entity within five budget years. The annual increases have been set to ensure the municipalities reach parity in the future.

Village of St. Martins

Once ratified by the core municipal partners of Saint John, Grand Bay-Westfield, Rothesay, Quispamsis, and Hampton, St. Martins will be engaged to get their buy-in and participation. The proposed funding levels are \$2,800 starting in 2021 rising to \$6,800 by 2025. These levels are consistent on a per capita basis with the other municipalities.

Why should municipalities make this level of investment into economic development?

- To transform the Greater Saint John region.
- To demonstrate municipal commitment to economic development and people attraction.
- To ensure the combined investment in economic development from all municipal partners rises significantly in the coming years.
- To ensure the new entity will have the capacity to invest more in key areas such as people attraction, community marketing/promotion/ branding and the development of stronger economic and demographic data for decision support.
- To boost population growth, business investment, visitors and new entrepreneurs in the city and region.
- In order to effectively compete with other urban centres, there needs to be a strong, regional economic development effort.

4.3 Other sources of funding

The new regional economic development organization will leverage other sources of funding to amplify the municipal investment. As detailed in Table 3, over the five-year forecast period the combined \$13.8 million municipal funding contribution is expected to leverage another \$17.9 million. For every municipal dollar contributed, a total of \$2.3 will be spent to support economic development across the Greater Saint John region. These other sources of funding can be grouped into three categories: the accommodations levy, other government funding and private sector funding.

Accommodations levy:

It is anticipated as a result of the pandemic that accommodation levy funds raised will drop to around only \$400,000 in 2020 with a modest rebound to \$700,000 in 2021. For this forecast model, it is assumed that the dollars raised from the levy will start to approach 'normal' by 2023 and increase through 2025. It is assumed the accommodation levy will be applied to other regional accommodations providers by 2022/2023 and these funds will be provided to the regional economic development organization to fund tourism development and promotion.

The projections are still well below the amount in the original prospectus and have been provided by Paulette Hicks in consultation with the Saint John Hotel Association. It is important to point out these funds are restricted by legislation and must be used for tourism development and promotion activities.

Provincial/federal government funding:

The provincial and federal governments already provide considerable funding to local agencies in support of economic development. This funding is tied to specific contracts and projects and is invested in areas such as workforce development, community promotion and people attraction. It is anticipated this funding will continue with the new regional organization. Opportunities New Brunswick and ACOA have been engaged during this process and have indicated a willingness to continue funding projects in the region moving forward and are very supportive and in favour of this new model.

Private sector funding:

As outlined in the original prospectus, it is expected the private sector will provide funding support for this new organization. This funding could be generic or tied to specific activities and initiatives of the organization. Because of the Covid-19 pandemic the ramp up period for this funding has been adjusted – starting at \$200,000 in 2021 and rising to \$450,000 by 2025. It will be imperative for the new organization to put a plan in place as soon as possible to engage the private sector in the support of regional economic development.

Table 2: Proposed Five-Year Revenue Forecast, New Economic Development Organization

Core municipal funding:	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
Saint John	\$1,700,000	\$1,700,000	\$1,900,000	\$1,900,000	\$1,900,000
Rothsay	\$148,000	\$192,000	\$250,000	\$266,000	\$283,000
Quispamsis	\$168,000	\$219,000	\$284,000	\$370,000	\$454,000
Grand Bay-Westfield	\$36,000	\$48,000	\$64,000	\$86,000	\$118,000
Hampton	\$31,000	\$41,000	\$56,000	\$74,000	\$102,000
St. Martins	2,800	3,600	4,700	6,000	6,800
<u>Other communities (LSDs)</u>	<u>250,000</u>	<u>250,000</u>	<u>275,000</u>	<u>300,000</u>	<u>330,000</u>
Core municipal funding:	\$2,335,800	\$2,453,600	\$2,833,700	\$3,002,000	\$3,193,800
Accommodation levy:*	\$700,000	\$1,500,000	\$1,700,000	\$1,800,000	\$1,900,000
Other potential funding					
Prov/federal government**	\$1,700,000	\$1,700,000	\$1,700,000	\$1,700,000	\$1,700,000
Private sector**	<u>200,000</u>	<u>300,000</u>	<u>400,000</u>	<u>450,000</u>	<u>450,000</u>
Total – other	\$1,900,000	\$2,000,000	\$2,100,000	\$2,150,000	\$2,150,000
Funding forecast (proforma):	\$4,935,800	\$5,953,600	\$6,633,700	\$6,952,000	\$7,243,800

*Estimated by the Saint John Hotel Association.

**Based on current provincial and federal funding of local economic development and people attraction initiatives.

**Recommended private sector contribution.

4.4 Putting municipal funding into context

The original prospectus provided to each municipality included an assessment of municipal economic development funding compared to other similarly sized cities and towns across Atlantic Canada. The funding levels proposed in this model will bring the municipalities into a similar economic development funding range as others across the region.

4.5 Growing the core municipal funding

Moving forward, it will be the role of the Board of Directors and the Chief Economic Development Officer (CEDO) to propose a sustainable and growing funding model for the new economic development entity. From the original report prepared by the Advisory Council, the concept of linking municipal funding to growth (e.g. population, tax base, etc.) is a good guiding principle. For example, if one municipality's population grows faster than another, it would pay slightly more over time based on the differential. This future model will need to be negotiated between the new organization and its municipal government funding partners.

4.6 Spending the budget by function

The Advisory Council believes the new board, CEDO and leadership team should determine how the budget will be allocated by functional area subject to input from the municipal government shareholders to ensure alignment with their priorities. Section 3.2 above outlines the functional areas for the new entity.

The Advisory Council is of the view that the new entity can be fully in place by January 1, 2021 (subject to the timeline outlined in Section 6 below) but it is important to note there will be a necessary budgetary expenditure transition period as the current activities are transitioned into the new entity.

4.7 The need for a multiyear funding commitment

The Advisory Committee is asking each municipality to make a multiyear commitment to the new economic development entity. This will be critical to the success of the new organization. The research and consultations completed for this project confirmed the perceived instability of funding for economic development has negatively impacted the community's ability to develop and implement successful strategies.

The new entity, of course, will be subject to strong oversight and will work towards key performance indicators (KPIs) each year but the annual funding commitment should be in place for an extended period of time.

Upon agreement of participation in the new regional economic development model under the terms outlined in this prospectus, municipalities will be asked for a letter of commitment to support the organization for five years. However, municipalities will be offered an opt-out provision after Year 3 but this opt-out provision will require material underperformance relative to the goals set for the organization.

5. Governance and oversight

5.1 Overriding governance principles

The governance model was designed around the notion that strong governance will drive exceptional organizational performance. There is a growing body of evidence that would suggest this is in fact the case. The following core governance principles guided the design of the governance process:

1. The governance process will be modeled around state-of-the-art governance practices using the latest NPO board certification standards, like those found in the *Imagine Canada* board certification guidelines. The goal is to have this board certified.
2. The board will consist of *Inside* Municipal / Government Directors and *Outside* Private Sector Directors. The outside directors will consist of the majority of the board members, and thus control the board.
3. The Chair will be an outside director.
4. The CEDO will report directly to the board and will also be an ex-officio director of the board.
5. The inside directors will be appointed by the municipalities from senior staff members; primarily the city and/or town managers. No elected representatives will sit on this board.
6. We recognize that the municipalities will require a measure of control over the direction of the organization, thus we have designed a structure giving them *preferred shareholder* status, which in effect will require a majority of municipal director's approval surrounding certain key directional decisions of the board and, by extension, the organization.

5.2 Board and committee structure

Board Structure

The board will be made up of 14-15 directors, which by today's governance standards is a relatively big board; the average is 11. This is required to ensure proper representation across the various stakeholders. The board will have the opportunity to appoint up to 7 - 8 outside private sector directors and six inside municipal directors as well as 1 provincial government nominated director.

Inside Municipal Directors

Inside Municipal Directors will be appointed to the board on 4-year terms coinciding with municipal election cycles. These directors will be appointed by the municipalities and will have no term limit.

Representation is anticipated as follows:

- Two (2) from the City of Saint John, including the City Manager. Each city board member will have two votes. The City Manager will sit *ex officio* on the Executive Committee (in a non-voting role).
- Four (4), one from each of the other municipalities. Each board member will have one vote.

The municipal directors will be appointed from staff positions and are not meant for political appointees.

Inside Government Nominated Director

The provincial government will be asked to appoint a director on 4-year terms, which will coincide with municipal election cycles for continuity with the appointment of the inside municipal directors. This director will have full voting rights on the board but will not share the preferred privileges of the municipal directors.

Outside Private Sector Directors

Outside Directors will be appointed to the board on three-year terms, with the opportunity for one three-year extension based on performance. This will, among other things, ensure effective rotation of board members outside of the four-year municipal election cycle. Initially board representatives will serve staggered terms to ensure an orderly transition.

Outside Directors will be selected through a nominating committee of the board (see committee structure below) which will consist of 100% outside directors. The nomination process will be driven by a transparent skills matrix which will include requirements for directors surrounding 1. skills / experience, 2. gender balance, 3. diversity and 4. geographic representation.

NOTE: The initial board of directors will be selected by a transition committee of private sector/community leaders. This transition committee will be appointed by the five municipalities. See Section 6 below for details.

Committee Structure

The work of any board is through its committees. This board will have three required committees, plus the ability to appoint additional committees as its needs arise. The three required committees are as follows:

1. **Governance / Nominating Committee** – This committee will consist of 100% outside directors and be responsible for defining, setting and recommending any changes to the organization's bylaws and governance practices. They will monitor and manage the effectiveness of the governance processes and oversee the governance certification process. They will strike an annual *Nominating* sub-committee to recommend required changes to the board slate, any allowable extensions, along with replacement board member recommendations. Its mandate only relates to the outside directors. The governance committee will require at least one director who is deemed a legal expert.
2. **Finance / Audit Committee** – This committee will be responsible to work with the finance team in preparing the annual audit. They will hire and oversee the auditor in having this work completed. They are responsible to report to the board, at least quarterly, on the financial results of the organization. This committee will require at least one director who is deemed a financial expert.
3. **HR Committee** – This committee will consist of 100% outside directors and will oversee the selection and performance of the Chief Economic Development Officer and her/his senior executive team, including compensation packages and performance bonuses. This committee will also be responsible for setting the compensation plans for the organization.

Board Executive

The board executive will consist of a Chair, one to two Vice Chairs and a Treasurer along with the Saint John City Manager in an *ex officio* role. This will ensure a transparent and clear progression for board leadership. It is anticipated the Chair will have a two-year term with no opportunities for extension. The process to nominate and elect Vice Chairs and future Chairs will be managed by the Governance Committee yet will involve all directors of the board. The board executive will be made up of 100% outside directors with the exception of the City Manager. Note that directors who are elevated to the executive may end up spending slightly more than six years on the board.

Preferred Shareholder Status

Inside Municipal Directors, who are effectively representing their communities on the board, will be part of a block of directors with preferred voting rights against a number of key criteria. Essentially this block of six directors will have to approve certain essential material decisions of the board. Majority will rule in these instances, with a tie to be broken by a vote of the broader board. Once agreed, standard board majority rules governance practices will apply. The following items will require approval from a majority of the inside municipal directors and by extension, the municipal shareholders.

- **Four-year Strategic Goals and Objectives.** Pursuant with the municipal election cycles, the organization will prepare a set of four-year strategic goals and objectives for the organization, along with anticipated measurable outcomes and an associated budget. This will set the direction for the CEDO to build plans for the organization to achieve these goals.
- **New Funding Arrangements.** Any new funding arrangements, of a material and/or directive nature, will require approval of the inside directors. For example, taking on a material amount of new debt.
- **Bylaws.** Changes to the organization's bylaws and/or governance structure.
- **Annual Business Plans.** Annual business plans that vary in a material way from the approved strategic plans.

These rights will give the municipal shareholders a measure of control over the direction of the organization, while ceding day-to-day control to the outside private sector directors. Once these have been defined the municipal shareholders will have the opportunity to suggest any additions and/or changes to the strategic direction with a goal to build consensus on the organizations four-year strategic goals.

Additional Board Committees

It is anticipated there will be additional board committees, with oversight responsibilities, surrounding key functional areas of the organization: tourism, economic growth, real estate, place branding and people attraction. This will, among other things, allow the board to bring in outside expertise in these respective areas, building more community involvement in the economic growth of the Saint John region. These committees are not required under the governance structure but are anticipated to be an important way to engage community leaders with specific subject matter expertise. This is an attractive way to build volunteer expertise in critical growth areas to ensure the organization is benefiting from the top talent in the region.

6. Transition to the new economic development model

An effective transition process will ensure the new organization has the team, structure and support to hit the ground running in 2021 and be able to tackle the key challenges and opportunities coming out of the Covid-19 pandemic. The timeline for transition will be as follows:

- **End of June/early July 2020:** The municipal Councils vote and approve the new regional economic development model. Letters of commitment will be asked from each municipality after the vote.
- **July 2020:** After the Councils approve the proposal, a transition committee of six community leaders will be set up immediately as recommended by the five municipalities. For continuity, some members of the current Advisory Council could be appointed to the transition committee. The transition committee's mandate will be the recruitment of the new board Chair and initial board of directors for the new organization.
- **August 2020:** The new board of directors will hire an executive recruitment firm to facilitate the process of CEDO recruitment.
- **August 2020-December 2020:** The board and facilitator* will work on a number of transition issues in advance of and in parallel with the recruitment of the new CEDO including by-laws development, contract template between the new organization and the municipalities, merging of existing organizations, etc. Any material decisions related to the structure and strategy for the new organization will only be decided after the new CEDO is in place.
- **October 2020:** After the board and CEDO are in place, a municipal priorities planning process will be implemented to ensure the new organization reflects the priorities of the municipal funding partners.
- **Fall 2020:** Existing organizations wind down and merge into new entity.
- **Fall 2020:** The new board of directors and CEDO will start working with the province to determine the LSDs in the new economic development model and their funding participation.
- **December 2020:** A set of Key Performance Indicators (KPIs) will be developed and approved by councils.
- **January 2021:** New entity is fully operational.

**It is highly recommended a transition coordinator be hired full time for a one-year period to help guide and support the transition.*

Transition-related costs

Funding for transition-related costs could come from the initial GNB \$500,000 contribution. During the consultation phase of this process, no major liabilities/commitments associated with the existing economic development organizations has been identified. There may be costs (e.g. leases, employment contracts, etc.) will have during the transition phase. These costs are not expected to be material to the operating cost structure of the new organization.

Schedule B

Municipal Funding

Core municipal funding:	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
Saint John	\$1,700,000	\$1,700,000	\$1,900,000	\$1,900,000	\$1,900,000
Rothsay	\$148,000	\$192,000	\$250,000	\$266,000	\$283,000
Quispamsis	\$168,000	\$219,000	\$284,000	\$370,000	\$454,000
Grand Bay-Westfield	\$36,000	\$48,000	\$64,000	\$86,000	\$118,000
Hampton	\$31,000	\$41,000	\$56,000	\$74,000	\$102,000

THIS FUNDING AGREEMENT is made _____, 2021 with effect as of and from January 1, 2021.

BETWEEN:

Rothsay, being a municipality under the *Local Governance Act*, S.N.B. 2017, c. 18, hereinafter the "Funding Party"

OF THIS FIRST PART

- and -

NEW REGIONAL ECONOMIC DEVELOPMENT AGENCY FOR GREATER SAINT JOHN, a company incorporated pursuant to the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23 having its head office in the City of Saint John in the Province of New Brunswick, hereinafter the "Agency"

OF THE SECOND PART

WHEREAS:

- A. The Funding Party has a municipal interest in the promotion and facilitation of the economic growth and development of the Greater Saint John Census Metropolitan Area (the "Region");
- B. The Funding Party also has a municipal interest in the marketing and promotion of the Funding Party and the Region to tourists and visitors;
- C. The Funding Party recognizes that the promotion of the economic growth and development of the Region and the marketing and promotion of the Funding Party and the Region to tourists and visitors is best served by a uniform, streamlined and coordinated approach that brings together municipal partners in the region often referred to as the Greater Saint John Area more specifically comprised of the City of Saint John, Quispamsis, Rothsay, Grand Bay-Westfield and Hampton (together, the "Municipalities");
- D. As contemplated in the Prospectus earlier approved by each of the Municipalities entitled "Collaborating to Ensure the Municipalities in Greater Saint John Will Prosper in the 2020s: A New Economic Development Model" (the "Prospectus"), the Funding Party together with the other Municipalities has caused the Agency to be incorporated;
- E. Each of the Municipalities and the Agency has entered into a Members' Agreement dated January 1st, 2021 providing for the governance of the Agency (the "Members' Agreement");

- F. As contemplated by the Members Agreement, the Agency and the Funding Party wishes to enter into this Funding Agreement to document the Funding Party's funding commitments in relation to the Agency;
- G. At its meeting held on March 8th, 2021 Council for the Funding Party resolved to enter into the within Agreement with the Agency;

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual covenants and agreements herein and subject to the terms and conditions of this Agreement, the parties agree each with the other as follows:

Interpretation

- 1. Capitalized terms used but not defined in this Agreement and that are defined in the Members' Agreement shall have the meanings assigned under the Members' Agreement.

Provision of Services

- 2. The Agency covenants and agrees that:
 - (a) It shall act as a central catalyst, facilitator and leader for the economic growth and development of the Region as well as the growth of the tourism and traveler industry in the Region, as is more particularly described in the Members' Agreement and the Prospectus;
 - (b) It shall make every reasonable effort to understand what major economic development projects are important to each of the Municipalities and, further, it shall ensure that such major economic development projects are considered within the process leading to the adoption of the Agency's Strategic Plan pursuant to the terms of the Members' Agreement;

Funding

- 3. The Funding Party covenants and agrees, subject to the Termination clause hereinafter set out, that during the Term of this Agreement:
 - (a) Annual Operating Grant. The Funding Party shall provide an annual operating grant to the Agency as consideration for the discharge of the functions outlined in this Agreement and the Members' Agreement, which shall be paid by the Funding Party to the Agency in equal quarterly payments on January 1st, April 1st, July 1st and October 1st, respectively, during each year of the Term of this Agreement:
 - (i) in 2021, the annual operating grant shall be \$148,000;
 - (ii) in 2022, the annual operating grant shall be \$192,000;
 - (iii) in 2023, the annual operating grant shall be \$250,000;
 - (iv) in 2024, the annual operating grant shall be \$ 266,000;
 - (v) in 2025, the annual operating grant shall be \$ 283,000.

- (b) Tourism Accommodation Levy. The Funding Party shall, or upon the adoption of a by-law under section 101.1 of the *Local Governance Act*, S.N.B. 2017, c. 18 as contemplated by Section 5.3 of the Members' Agreement if not already in effect, pay or transfer to the Agency the Accommodation Levy in the manner provided for in Section 5.3 of the Members' Agreement.

Taxes

4. The amounts to be paid or remitted to the Agency under Section 3(a) do not include HST based on the Agency being a para-municipal organization. Should the Agency not be classified as a para-municipal organization for HST purposes, the contributions agreed to be paid to the Agency by the Member will be reduced to 95.89% of the otherwise agreed amount and HST shall be added to these reduced amounts. Should the rate of HST or municipal HST rebate amounts change, the reduction to the otherwise agreed amount above, will be adjusted accordingly such that the Member's total cost including non-refundable HST is the Total Operating Grant included in Section 3(a).

Independence of the Funding Party and the Agency

5. The Parties acknowledge and agree that the Funding Party and the Agency are separate corporations and that the Funding Party is not responsible for any debts or obligations incurred by the Agency.

Term and Termination

6. This Agreement shall be for a term of five (5) years commencing on January 1, 2021 and ending December 31, 2025 provided that, subject to paragraph 8.3(b) of the Members' Agreement, this Agreement shall immediately terminate upon the Funding Party becoming a Withdrawn Member under the terms of the Members Agreement.

Dispute Resolution

7. Any dispute under this Agreement shall be resolved in accordance with the dispute resolution procedures set out in Article 10 of the Members Agreement.

Force Majeure

8. It is acknowledged and agreed that neither party under this Agreement shall be held responsible for damages caused by delay or failure to perform its undertakings under the terms of the Agreement when the delay or failure is due to fires, strikes, floods, acts of God, pandemic, lawful acts of public authorities or delays or defaults caused by common carriers, which cannot be reasonably foreseen or provided against. A "Force Majeure Event" includes, but is not limited to, any war, invasion, insurrection, armed conflict, act of foreign enemy, revolution, terrorist act, pandemic, interference by military authorities, nuclear explosion, contamination by ionizing radiation, epidemic, quarantine restriction, flood, earthquake or hurricane that prevents, delays or interrupts the performance of any obligation under this Agreement, other than any obligation to pay any money, and provided such event does not occur by reason of:
- (a) the negligence of the party relying on the Force Majeure Event (or those for whom it is in law responsible); or

- (b) any act or omission of the party relying on the Force Majeure Event (or those for whom it is in law responsible) that is in breach of the provisions of this Agreement.

No Assignment

- 9. This Agreement is not assignable. Any attempt to assign any of the rights, duties or obligations of this Agreement is void.

Time

- 10. Unless otherwise agreed to at the sole discretion of the Funding Party, this Agreement shall not be enforced, or bind any of the parties, until the following conditions are met:
 - (a) the Agreement is approved and executed by the Funding Party and the Agency, and;
 - (b) the Members' Agreement is approved and executed by the Agency and each of the Municipalities.

Notices

- 11. All notices, requests, claims, demands and other communications hereunder must be in writing and are sufficiently given if delivered personally, by registered mail (postage pre-paid, return receipt requested), by a recognized overnight delivery service or by facsimile, email or other electronic transmission (provided however, that email or other electronic transmission is not sufficient delivery if no email address is included herein), directed as follows:

to the Funding Party:

to Rothesay
70 Hampton Road
Rothesay, NB E2E 5L5
Attention: Office of the Town Clerk
E-mail: left blank
Phone: 506.848.6600

to the Agency:

to the New Economic Development Agency of Greater Saint John
40 King Street
Saint John, NB E2L 1G3
Attention: Office of the Chair
E-mail:
Phone: 1.506.658.2877

- (a) Each such notice, request, claim, demand or other communication is deemed to have been received upon the earliest to occur of (i) actual delivery, (ii) in the case of registered mail, 5 Business Days after being deposited in the mail addressed as aforesaid, (iii) in the case of facsimile, e-mail or other electronic transmission, on the next Business Day following the date of transmission (provided that the original of such notice, request, claim, demand or other communication is promptly sent by overnight delivery service as aforesaid) and (iv) in the case of overnight delivery service, one Business Day after being sent addressed as aforesaid. The Parties may designate additional addresses, facsimile numbers or e-mail addresses for

particular communications as required from time to time, and may change any address, facsimile number or e-mail address upon 5 Business Days' prior notice thereof.

Amendments

12. No change or modification of this Agreement shall be valid unless it be in writing and signed by each party.

Acknowledgement of Terms and of Entirety

13. It is agreed that this written instrument embodies the entire agreement of the parties with regard to the matters dealt with in it, and that no understandings or agreements, verbal or otherwise, exist between the parties except as expressly set out in this instrument.

Further Documents

14. The parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this Agreement.

Validity and Interpretation

15. Descriptive headings are inserted solely for convenience of reference, do not form part of this Agreement, and are not to be used as an aid in the interpretation of this Agreement.
16. It is intended that all provisions of this Agreement shall be fully binding and effective between the Parties, but in the event that any particular provision or provisions or part of one is found to be void, voidable or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed severed from the remainder of this Agreement and all other provisions shall remain in full force.

Governing Law

17. This Agreement shall be governed by and construed in accordance with the laws of the Province of New Brunswick.

Successors, Assigns

18. This Agreement shall enure to the benefit of and be binding on the respective successors of each of the parties.

Counterparts

19. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

Rothesay

By: _____

Name: Dr. Nancy Grant

Title: Mayor

By: _____

Name: Mary Jane Banks

Title: Clerk

**NEW REGIONAL ECONOMIC DEVELOPMENT
AGENCY FOR GREATER SAINT JOHN**

By: _____

Name: Cynthia Goodwin

Title: Chairperson

By: _____

Name:

Title: