



# Restructuring Options for Chestermere Utilities Incorporated

McMillan LLP

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# Chestermere Utilities Incorporated

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- In 2010 Chestermere Utilities Incorporated (CUI) was incorporated to provide water, wastewater, stormwater and garbage/recycling services to the City of Chestermere (City)
- CUI is wholly owned by the City
- In response to feedback and representations received from the public, the City undertook a review of CUI's operations
- On September 4, 2018, City council determined that current operations and governance of CUI were no longer desirable
- The City engaged KPMG LLP (KPMG) and McMillan LLP (McMillan) to review the options available to the City for restructuring CUI and the provision of its services

# Scope of Work

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- KPMG was engaged to consider:
  - Financial and operational position of CUI
  - Material contracts and debt obligations of CUI
  - Alternative structures for provision of municipal utility services to the City
- McMillan was engaged to consider:
  - The corporate and legislative requirements to implement:
    - a restructuring of CUI
    - alternative structures for the provision of CUI's utility services

# Options for Restructuring CUI

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The options for restructuring CUI and alternative structures for the provision of utility services outlined by KPMG include:

- (a) Municipalization of CUI
- (b) Retaining a shell of CUI
- (c) Merging CUI with another municipal utility
- (d) Partnership/outsourcing of CUI services
- (e) Entering into new lines of business

# Municipalization of CUI

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- The municipalization of CUI would involve the return of water, wastewater, stormwater and garbage/recycling services to the City
- As CUI and the City were created under two separate pieces of legislation, there is no option to amalgamate the two entities
- Municipalization could be achieved by dissolving CUI, which would require that all of CUI's debts and liabilities be transferred to the City

# Municipalization of CUI (cont'd)

- The process of dissolving CUI would require that CUI and the City address a number of issues, including but not limited to:
  - Re-integrating services into the City
  - Repeal of Chestermere Utilities Exclusivity Bylaw
  - Obtaining consent from lenders and contract counterparties for the dissolution of CUI and transfer of agreements to the City
  - Advising and obtaining representations from the public about a material change to CUI, which is a regulatory requirement for controlled corporations under the *Municipal Government Act*

# Retaining a Shell of CUI

- Retaining a shell of CUI would involve retaining CUI as a legal entity and transferring certain of its assets and liabilities to the City
- This option would allow certain debts and liabilities to remain with CUI and not be assumed by the City
- Retaining a shell of CUI would require that CUI and the City address a number of issues, including but not limited to:
  - Re-integrating select services into the City
  - Repeal of Chestermere Utilities Exclusivity Bylaw (if the City re-integrates utility services)
  - Obtaining consent from lenders and contract counterparties for the transfer of agreements to the City
  - Advising and obtaining representations from the public about a material change to CUI

# Merging CUI with Another Utility

- As outlined by KPMG, CUI may be able to merge with other municipal utilities
- If the City is able to identify an appropriate municipal utility to merge with, the mechanics of achieving such a merger could include:
  - Completing an amalgamation under the provisions of the *Alberta Business Corporations Act*;
  - a sale of the assets of CUI to the other utility (or vice versa); or
  - a sale of shares of CUI from the City to the other utility or owner of the other utility (or vice versa).



# Merging CUI with Another Utility (cont'd)

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- This option would allow all of CUI's debts and liabilities to remain with CUI but would require that CUI and the City address a number of issues, including but not limited to:
  - Obtaining consent from lenders and contract counterparties for the amalgamation of CUI or the transfer of CUI's assets/shares
  - Advising and obtaining representations from the public about a material change to CUI

# Partnerships/Outsourcing of CUI's Services

- CUI may be able to seek partnerships or outsource certain of its service requirements
- This option allows CUI to retain all of its debts and liabilities and would generally not require that CUI undergo any corporate restructuring
- The specific mechanic to implement a partnership or outsourcing solution would be driven by the commercial deal reached by CUI with applicable investors or partners
- This option would require that CUI and the City address certain issues, including but not limited to:
  - Repeal of Chestermere Utilities Exclusivity Bylaw
  - Negotiating new utility services agreements with third parties which may need to be advertised and approved by the Alberta Utilities Commission

# Enter into New Lines of Business

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- CUI or the City may be able to enter into new lines of business
- This option allows CUI to retain all of its debts and liabilities and would generally not require that CUI undergo any corporate restructuring
- This option would require that CUI and the City address certain issues, including but not limited to:
  - Negotiating new utility services agreements with third parties which may need to be advertised and approved by the Alberta Utilities Commission
  - Review of CUI shareholders' agreement to determine whether a Council resolution is required for CUI to conduct a specific new line of business

# Summary

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- If there is public will to proceed with restructuring CUI, each of (i) municipalization, (ii) retaining CUI as a shell, and (iii) the amalgamation of CUI with another municipal utility would involve material changes to CUI, requiring public engagement under the *Municipal Government Act*
- Each of (i) pursuing partnerships/outsourcing of CUI services and (ii) entering into new lines of business, would not be expected to involve a material change to CUI or a restructuring of CUI
- Implementing any of the options outlined by KPMG will involve costs to both CUI and the City of Chestermere
- A feasibility study should be conducted for the specific option(s) chosen by the City to pursue

# Recommendation

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We recommend that Council select two options or alternatives for further consideration and obtain a feasibility study, including a detailed legal structure analysis

This study ought to include an estimate of costs of implementation of each option or alternative

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