



Corporation of the City of
NEW WESTMINSTER

REQUEST FOR PROPOSAL

NWRFP-16-37

Civil Engineering Services For New Tow Yard

Closing Time:

Wednesday, December 14, 2016
3:00 PM, Local Time, Vancouver BC

Closing Location:

Main Information Desk
City of New Westminster
511 Royal Avenue,
New Westminster, BC, V3L 1H9

Further requests for information :

To: Roy Moulder, SCMP.
Purchasing Manager
Email: nwpurchasing@newwestcity.ca
Telephone: 604-527-4617

| | | |
|--|--|-------|
| COMPANY NAME | | |
| Street Address: | | |
| City Province Postal Code | | |
| Contact Name: | | |
| Telephone number: | | Fax: |
| Email | | Date: |
| <u>Signature:</u> by officer with express authority to bind the Proponent to the statements made in the Proposal | | |

By my signature above, it shall be understood that I have read, understood and accept the conditions outlined in the Request for Proposal, each and all of which form a part of this proposal, hereby offer to supply the Services in strict accordance with the conditions hereto attached and as outlined in this Proposal.

PLEASE INCLUDE THIS PAGE WITH SUBMISSION

CORPORATION OF THE CITY OF NEW WESTMINSTER

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CORPORATION OF THE CITY OF NEW WESTMINSTER**1.0 DEFINITIONS**

- 1.1** **“Agreement” “Contract” “Services Agreement”** means a contract that may be issued to formalize with the successful Proponent through a negotiation process with the City based on the proposal submitted and will incorporate by reference the Request for Proposal, any addenda issued, the Proponent’s response and acceptance by the City.
- 1.2** **“City” “Owner”** means City of New Westminster.
- 1.3** **“Consultant” “Contractor” “Project Manager”** means the person(s), firm(s) or corporation(s) appointed by the City to carry out all duties, obligations, work and services first contemplated in the Request for Proposal and all associated documentation, which may also include mutually agreed revisions subsequent to submission of a Proposal. Both “Consultant” “Contractor” “Project Manager” and “Proponent” are complimentary in terms of duties, obligations, and responsibilities contemplated at the Request for Proposal stage, through evaluation process, execution, and performance of the Environmental Services.
- 1.4** **“Mandatory” “Must” “Shall” “Will”** mean a requirement that must be met.
- 1.5** **“Product”** means, unless the context requires otherwise, any and all articles, goods, materials, supplies, commodities, machinery, equipment and fixtures to be supplied by the Contractor that comprise a portion of the Services, but specifically excluding facilities, equipment and materials used or constructed to carry out the Services that are not incorporated permanently into the Services.
- 1.6** **“Proponent”** means responder to this Request for Proposal.
- 1.7** **“Proposal”** means the submission by the Proponent.
- 1.8** **“Provide” “Supply”** shall mean provide and pay for, and supply and pay for.
- 1.9** **“Request for Proposal” “RFP”** shall mean and include the complete set of documents, specifications, drawings, and addenda incorporated herein, and included in this Request for Proposal.
- 1.10** **“Services”** means and includes the provision by the successful Proponent of all services, duties and expectations as further described in this RFP.

CORPORATION OF THE CITY OF NEW WESTMINSTER**2.0 INTRODUCTION**

The City is inviting experience Civil Engineering firms to submit a Proposal for the provision of civil engineering consulting services for the design of a new tow yard facility located in Queensborough, New Westminster, BC. The successful Proponent shall retain and coordinate the work of all necessary sub-consultants for the Project.

3.0 PROPOSAL INSTRUCTIONS

One (1) electronic and two (2) hard copies (one to be unbound) of the Proposal, are to be submitted and clearly marked on the outside envelope or box as follows:

NWRFP-16-37
Civil Engineering Services – New Tow Yard
Attention: Purchasing Manager

The City will receive Proposals at the location and time indicated on the title page of this Request for Proposal.

It is the Proponent's responsibility to ensure that the City receives its Proposal prior to the stated closing time. The City may nevertheless choose to consider late proposals. The City does not accept facsimile, electronic mail, or other unsealed submissions.

Requests for clarification or further information must be made in writing only to the individual identified on the first page of this RFP. The City will respond to enquiries that it, in its sole discretion, considers relevant to this RFP. The City intends to respond only to those relevant written enquiries received at least ninety-six (96) hours prior to the closing time. The City will record enquiries and post written responses on its website at [City of New Westminster | Business & Economy | Doing Business With the City | Request for Bids & Proposals - Open](#)

4.0 GENERAL CONDITIONS**4.1 NO CONTRACTUAL OBLIGATIONS AS A RESULT OF RFP OR PROPOSAL**

This is a Request for Proposal, and not a call for tenders or request for binding offers. The City does not intend to enter into contractual relations as part of this RFP process and no contractual obligations whatsoever will arise between the City and any Proponent who submits a Proposal in response to this RFP until and unless the City and a Proponent enter into a formal, written contract for the Proponent to undertake this project. Attached for reference is the City's Draft Consulting Services Agreement (Appendix B).

4.2 OWNERSHIP OF PROPOSALS AND FREEDOM OF INFORMATION

All documents submitted to the City in response to this RFP or as part of any subsequent negotiation will become the property of the City, and will not be returned. Proponents should also be aware that this RFP and any records or information that a Proponent provides to the City, or that the City acquires or creates in relation to this RFP, may be the subject of a request for access to records under *Freedom of Information and Protection of Privacy Act* (FIPPA) and may be disclosed in whole or in part pursuant to FIPPA or the *Community Charter* (British Columbia), or both, and the City makes no representations or warranties as to whether information or records will in whole or in part be disclosed or not disclosed.

CORPORATION OF THE CITY OF NEW WESTMINSTER**4.3 CONFIDENTIALITY OF CITY INFORMATION**

This RFP and all information provided by the City to a Proponent is provided on a confidential basis, and Proponents will not disclose any such information to any person (other than the Proponent's legal advisers) without the City's prior written consent, nor may any Proponent publicize or advertise its involvement with this RFP process or the City in connection therewith without the prior written consent of the City.

4.4 PROPONENT'S EXPENSES

For clarity, Proponents will be solely responsible for their own expenses incurred in preparing a Proposal or in any subsequent negotiations with the City.

4.5 CONTACTING CITY REPRESENTATIVES

Proponents shall not contact City elected officials, officers or employees directly or indirectly regarding this RFP, except as indicated in this RFP.

4.6 CONFLICT OF INTEREST

Proponents shall disclose any potential conflicts of interest and existing business relationships they may have with the City, its elected or appointed officials or employees. The City may rely on such disclosure. The City may reject a Proposal from any Proponent that the City judges would be in a conflict of interest if the Proponent is awarded a Contract. Failure to disclose, or false or insufficient disclosure of the nature and extent of any relationship the Proponent may have with any employee, officer or director of the Owner shall be grounds for immediate termination of any agreement or contract with the Owner, in the Owner's sole discretion, without further liability of notice.

4.7 INSURANCE

The successful Proponent will, without limiting its obligations or liabilities and at its own expense, provide and maintain throughout the Contract term, the following insurance with insurers licensed in British Columbia in forms acceptable to the City:

- a) Commercial General Liability Insurance protecting the City, for an amount of five million dollars (\$5,000,000) naming the City as additional insured;
- b) Professional Liability Insurance of two million dollars (\$2,000,000)

4.8 PERMITS AND LICENSES

The successful Proponent may be required to obtain a City of New Westminster or Inter-Municipal Business license prior to commencement of work.

5.0 LIVING WAGE EMPLOYER

Effective January 1, 2011, the City of New Westminster became a "Living Wage Employer". As such, the City has established a [Living Wage Policy](#) that requires all firms that are contracted by the City to provide services on City premises, to pay their employees, who perform said service on City property, a Living Wage as calculated by the Living Wage for Families Campaign. The figure for 2016 for the Lower Mainland is \$20.64, assuming no benefits are provided by the employer.

In order to determine an employee's hourly rate with benefits the Living Wage for Families has created a Living Wage Calculator to assist with this determination. Please access the following website to determine your compatibility. <http://www.livingwageforfamilies.ca/employers/living-wage-calculator/>

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The City includes in all its competitive bid documents a Declaration referencing the City's expectations with regards to compliance of the Policy (attached as Appendix A). Completion and submission of the Declaration is required prior to Contract award.

In evaluating submissions, the City intends to rely on the Declaration provided by a Respondent and shall have no obligation or duty to investigate the truthfulness of the Declaration. Please review the City's [Living Wage Policy](#) for further information.

6.0 BACKGROUND

6.1 In 2014, staff received direction from Council to evaluate a number of city owned sites that may be suitable for the relocation of a new animal shelter and tow yard. Staff analysed a number of sites and selected the sites located on Wood Street as the most feasible locations. The tow yard site is located under the south approach to the Queensborough Bridge.

6.2 A Task Force comprised of Council members, department heads, managers and Administration worked through 2015 to recommend a space plan that would meet the needs of the animal and parking bylaw officers and provide housing for a number of animals. The City retained the services of the Chernoff Thompson Architects to work with the Task Force to develop a formal space plan and preliminary site layout of a proposed animal services facility and tow yard - See Appendix C.

7.0 TERMS OF REFERENCE

7.1 The tow yard site is located on poor soils and it may be necessary to provide ground improvement throughout the proposed location. The conceptual design prepared by the architect has determined that there may be a requirement for two crossings over the drainage canal for accessing the tow yard, if a rail crossing, connecting the two lots if the tow yard, cannot be constructed. However, the City's preference is to achieve the similar functionality with one crossing. The drainage canal (denoted as "waterway" on Appendix C) is a red coded watercourse and environmental approval from the authorities having jurisdiction for construction of the tow yard will be required.

7.2 The City, through this Request for Proposal, seeks to retain civil engineering services for the preliminary, detailed design and tender drawings and inspection/contract administration services phases for both the on and related off-site servicing works of the proposed tow yard. Work is to be coordinated with other project consultants. The design is to be consistent with current municipal, regional, provincial and federal design criteria, standards and specifications.

7.3 A Proposal shall include an electrical engineering consultant as part of the team.

7.4 Proponents must ensure their Proposal incorporates the following in the schedule of effort:

- A thorough site inspection to familiarize project team with the subject area;
- Project initiation and progress meetings with City staff at key milestones;
- Consultation with the local residents and City staff as required to obtain feedback regarding the suitability of the proposed design
- Submission of a design package to City for review and revision as required;
- Consideration for a contractor staging area during construction and preservation of existing infrastructure where appropriate/possible;
- Consideration for pedestrian sightlines, connections, lighting, etc.;
- Consideration for emergency vehicle/bus/garbage & recycling truck access;

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- Location of existing driveways in adjoining areas;
- City expectation that any design will consider minimizing the ongoing maintenance requirements;

7.5 All meetings with the City, approval agencies and the public are considered to be an integral part of the Project.

7.6 The successful Consultant will be responsible for obtaining all necessary permits and agency approvals on behalf of the City. Agencies may include, but are not limited to, Department of Fisheries and Oceans, Port Metro Vancouver, Ministry of Environment, Ministry of Transportation and Infrastructure etc.

8.0 SCOPE OF WORK

8.1 Phase 1 Functional and Preliminary Design

- i. Obtain and review relevant reports, plans, record drawings and data from the City of New Westminster;
- ii. Prepare a topographic survey for full civil engineering design of the tow yard. The survey shall include entrance/exits to the tow yard including adequate turning radius onto Wood Street. In addition to the site area identified in red in Appendix C, the City will require the area of Wood Street from Boyd Street down to the animal services facility surveyed. The animal services facility is not considered part of this additional surveying;
- iii. Prepare a functional design / laning plans on the site area approaching Wood Street including the review of the location of the access points to the site area;
- iv. Review vehicle turning movements at designated accesses;
- v. The site preparation will include different options including preloading vs. removal of poor soils and lightweight fills anticipated for this site taking into consideration the sequence of construction, budget and project schedule and impacts to the existing Queensborough bridge;

8.2 Phase 2 Detailed Design

- i. Produce detailed designs for the site area up to the street's centerline. The design drawings shall show cross-sections, plans and profiles location and elevation of tow yard entrances, driveway crossings and tow yard, catchbasin relocations, utilities and any other pertinent items;
- ii. Incorporate signage and pavement marking plan if required;
- iii. Prepare a design for pavement structure utilizing information from the geotechnical consultant engaged under separate contract by the City;
- iv. Include a storm water management plan and sediment control plan;
- v. Include calculations of minor and major storm runoffs from the project site and verify that the existing storm system has adequate capacities to accommodate the development;
- vi. Prepare an electrical lighting design that incorporates the tow yard and lighting and automated gates;
- vii. Coordinate and incorporate into the design the detailed structural design for a proposed bridge crossing (or box culvert) and for crossing over a shallow 750 mm diameter Metro Vancouver waterline meeting Metro Vancouver requirements. Structural engineering services will be engaged by the City under separate contract;
- viii. Prepare detailed specifications based on City and MMCD documents and City standards;

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- ix. Prepare a schedule of quantities and Class “A” construction estimate. The estimate is to include removal of excavated soils; and
- x. Attendance at and preparation of design and information boards suitable for display at public open houses and/or council meetings (assume 2).

8.3 Phase 3 Tendering Services

- i. Prepare tender/contract documents using the MMCD 2009, Platinum Edition and City front end documentation and detailed specifications;
- ii. Respond to tender inquiries; and
- iii. Review tender submissions received and make recommendation for award.

8.4 Phase 4 Site Review/Inspection and Contract Administration

- i. Provide construction survey layout for the project;
- ii. Review contractor traffic management plan with City staff;
- iii. Provide all contract administrator duties as identified in the MMCD General Conditions, Platinum Edition;
- iv. Provide full time inspection during construction (allow 30 working days for the purpose of this proposal) and coordinate materials testing as required;
- v. Provide contract administration services, assess claims and change orders and prepare progress payment for all civil works; and
- vi. Provide as-built information, in both hard copy paper drawing and AutoCAD format, to City Standards.

9.0 SCHEDULE

- 9.1** The Consultant must initiate work within 7 days of issuance of Notice to Proceed.
- 9.2** Construction is anticipated to begin August 2017 and is anticipated to be substantially complete by December 31, 2018.
- 9.3** Proponents should note however, as per the draft Contract, the City reserves the discretion whether to proceed with some, all or none of the Services for the Project.
- 9.4** The proposed schedule of dates are estimates and may change at the discretion of the City.

10.0 BUDGET

- 10.1** The City has established a construction budget of \$1.7 million.

11.0 DELIVERABLES

- 11.1** The Consultant will provide:
 - a) Detailed report outlining results of investigation;
 - b) Drawings in AutoCAD showing locations of boreholes.
 - c) Field review services and reports during construction.
 - d) As-built drawings

CORPORATION OF THE CITY OF NEW WESTMINSTER**12.0 PROPOSAL FORMAT AND PREPARATION**

- 12.1** Proposals should not exceed twenty (20) pages in length excluding attached appendices. Proposals should be provided double-sided on 8 ½” white paper, in a font colour of black and not less than 11 point. All proposals must clearly identify:
- a) Understanding of assignment;
 - b) Approach;
 - c) Cost/Schedule;
 - d) Project Team/Experience/List of any sub-Consultants.
- 12.2** In addition to the substantive Proposal requirements identified within this RFP, the following are considered key content that should be included as part of the Proponent’s Proposal:
- a) A brief outline of the Proponent’s understanding of the project;
 - b) A detailed work program and methodology to successfully achieve the objectives;
 - c) A schedule of activity from date of award to final submission, including a labour summary matrix that provides person-hour estimates for each of the work activities;
 - d) The cost to complete the project in the form of a spreadsheet showing the proposed level of effort and fees for each stage of the project;
 - e) An estimate of project related disbursements and charge-out schedule for personnel and disbursements in general (refer to Section 13.2 and 13.3). The Proponent may not add overhead costs to disbursements;
 - f) The proposed project team complete with brief resumes, describe each person’s role in this project and their qualifications and experience to take on successfully the role;
 - g) The Project manager assigned to the project;
 - h) A list of any sub-Consultants with a brief resume of experience;
 - i) An indication of similar projects undertaken by the Consultant; and,
 - j) Names of three references of clients who have undertaken similar work, the City may contact the references to assess the performance of the Proponent.

13.0 PRICING

- 13.1** The Proposal is to include a schedule of effort and pricing based on hourly rates. Note that this requirement is only meant for the Proponent to demonstrate the Proponent’s anticipated resource allocation for the proposed Scope of Services, and as such, it is the Proponent’s responsibility to provide the services specified for the **fixed fee** proposed regardless of the proposed schedule of effort and related pricing. As part of their Proposal, the Proponent must include a breakdown of all costs including different preloading options based on budget, project schedule and sequencing of construction.
- 13.2** The following expenses **must be included** in the fixed, lump sum fee proposal:
- a) All cost associated with reproduction of reports, fax, photocopier and long distance telephone calls;
 - b) All documentation required to respond to Request For Proposal
 - c) All documentation required to address day to day management of the Scope of Work;
 - d) All indirect (or overhead) expenses incurred in the course of operating a firm including local travel expenses;
 - e) All costs associated with the necessary insurance coverage including professional liability insurance.

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- 13.3** The disbursements which will be reimbursed **at cost** will include the following:
- a) Delivery of drawings, reports including courier, postage etc.;
 - b) All necessary documents required to obtain all permits and approvals from the authorities having jurisdiction.

14.0 PROPOSAL EVALUATION AND SELECTION

- 14.1** The City of New Westminster will evaluate all submitted valid Proposals. The object of the evaluation and selection process is to identify the Proposal that, in the City's opinion offers the best value for the Products and/or Services requested.
- 14.2** The City is not obligated to accept the lowest priced Proposal or any Proposal, and may reject all submissions.
- 14.3** The City has the absolute right to accept or reject any Proposal for any reason, to negotiate with any Proponent or Proponents and to evaluate the Proposals in accordance with all information submitted by the Proponents and to abandon the RFP at any stage, for any reason.
- 14.4** There shall be no obligation on the part of the City neither to receive further information, whether written or oral, from any Proponent nor to disclose the nature of any Proposal received.
- 14.5** The City at its discretion, may invite some or all Proponents for an interview to provide clarifications of their Proposals. In such event, the City will be entitled to consider the answers received in evaluating Proposals.
- 14.6** The City may award a Contract to the Proponent whose submission, in the City's sole discretion, provides the best overall value to the City for the work. In evaluating the overall value to the City for the work in respect of each submission received, the City, in addition to price, will have in mind its critical goals of obtaining a high quality product in accordance with the schedule established under the Request for Proposal documents.
- 14.7** In evaluating overall value, the City may consider, without limitation, price, qualifications and past experience of Proponents, availability of necessary work forces and other resources, proposed methodology and schedule for completing the work, and the past performance of Proponents on similar projects in respect of quality of work, timeliness of work, costs of contract administration to the owner of the project, and costs associated with claims for extras in respect of the project. In this regard, considerations other than price may be of greater weight in the City's evaluation of submissions received.
- 14.8** Proposed project teams must be capable of completing all identified tasks; the City will not consider partial submissions.

15.0 REFERENCES**15.1 NOTE: Failure To Provide References May Result In Disqualification**

- 15.2** Proponents shall provide sources for three (3) references (companies for whom work of a similar magnitude and nature completed in the past five (5) years, including the City of New Westminster).



Corporation of the City of
NEW WESTMINSTER

NWRFP-16-37

APPENDIX A

Declaration – Living Wage Employer



DECLARATION – LIVING WAGE EMPLOYER

I, _____ as a duly authorized signing officer of

Company: _____

Address: _____

_____, confirm that all employees and sub-contractors under our contract with the City as outlined below, are paid not less than the “Living Wage” as calculated by the Living Wage for Families Campaign.

I understand that this requirement extends only to those employees and sub-contractors’ employees that perform work while on City premises and property for durations in excess of one continuous hour per occasion.

I understand that the City will conduct audits if and when notification of breach of this compliance is received by the City. I understand that in the event any breach of this declaration is found to be true, the City reserves the right to cancel its contract without penalty at any time once said authentication of the breach is made.

Contract Name: _____

Authorized Signatory:

Dated:



Corporation of the City of
NEW WESTMINSTER

NWRFP-16-37

APPENDIX B

Consulting Services Agreement

CONSULTING SERVICES AGREEMENT

This Agreement made the ___ day of ____, 2016 is

BETWEEN: THE CORPORATION OF THE CITY OF NEW WESTMINSTER
511 Royal Avenue, New Westminister, BC, V3L 1H9

(the “City”)

AND: [NAME].
[address]

(the “Consultant”)

THIS AGREEMENT IS EVIDENCE that in consideration of the mutual covenants and agreements contained herein, the City and the Consultant agree as follows:

1.0 Services

- a) The Consultant agrees to perform the consulting services (herein called the “Services”) detailed in the **Scope of Work and Proposal** which are attached to and forms part of this Agreement. (see Appendix A)
- b) The Consultant represents that the Consultant is professionally qualified and capable of performing the Services and shall at all times exercise the standards of care, skill and diligence normally provided by a professional specializing in the performance of the Services similar to those contemplated by this Agreement.
- c) The Consultant will not act for any party whose interests are in conflict with those of the City, unless the City provides specific prior waiver of that term in writing, in each instance.
- d) The Consultant warrants that neither it nor any of its officers, directors, and employees, as applicable, has any financial or personal relationship or affiliation with any elected official or employee of the City or their immediate families which might in any way be seen or perceived (in the City’s sole and unfettered discretion) to create a conflict. If any such conflict of interest arises during this Agreement, the Consultant will immediately inform the City in writing.

2.0 Duration And Termination

2.1 Duration

- a) Services under this Agreement shall commence on **[insert date]** and be completed in accordance with the schedule in the Scope of Work, subject to further extension as agreed upon by the parties.
- b) When the Consultant fulfils all requirements under this agreement to the satisfaction of the City, the City shall certify completion in writing.

- c) In the event additional services are required that do not fall within those described in the Scope of Work then the completion date set forth above may be extended by mutual agreement, to a period determined to be sufficient for such additional services. The City may request additional services and the Consultant will provide a written fee quote. The Consultant will not commence additional services until the City has accepted the fee quote.

2.2 Termination

- a) This Agreement may be terminated by the City as follows:
 - i) For Default or Deficiency – if, by an act or omission, the Consultant breaches a term of this Agreement or in the event that City determines, in its sole and unfettered discretion, that the performance of the Consultant is , in the opinion of the City, unsatisfactory, then this Agreement shall terminate immediately upon the City delivering notice to the Consultant;
 - ii) Without Cause – the City may terminate this Agreement for any reason or no reason following fourteen (14) days’ written notice to the Consultant by the City.
- b) Upon termination of this Agreement, the City will pay the Consultant for all work performed up to the effective date of termination. All other obligations of the City to the Consultant will terminate upon the termination or expiry of the Agreement.
- c) Acts or omissions by the Consultant which shall justify termination of this Agreement for default shall include but not be limited to the following:
 - i) neglect of duties;
 - ii) non-compliance of this Agreement;
 - iii) inability to perform the Services the Consultant represented the Consultant as competent to perform;
 - iv) any misrepresentation made or concealment of material fact for the purpose of securing this Agreement.

3.0 **Non-Disclosure Of Information**

- 3.1 The Consultant accepts that any information relating to the business affairs of the City is confidential and that any disclosure by the Consultant of any such information to unauthorized persons shall be cause for termination of this Agreement.

4.0 **Freedom Of Information**

- 4.1 All documents submitted to the City become the property of the City, and as such, the City advises the Consultant that parts, or all, of this contract and documents legally connected to this contract may be subject to the provisions of British Columbia's *Freedom of Information and Protection of Privacy* (FOIPPA) and *Community Charter*. Should the Consultant wish to ensure particular parts of this contract are protected from disclosure under the FOIPPA, the Consultant shall specifically identify any information or records forming part of the Services that constitute (1) trade secrets, (2) that are supplied in confidence, and (3) the release of which could significantly harm their competitive position. Information that does not meet all three of the foregoing categories may be subject to disclosure to third parties. Please refer to the Freedom of Information and Protection of Privacy Act for further information.

5.0 **Compliance With Applicable Laws**

- 5.1 The Consultant shall be responsible for giving all notices and complying with all laws, ordinances, rules, regulations, codes, and standards relating to the conduct of the Services and the locations to

which the Services are to be performed. The Consultant shall indemnify the City and hold it harmless from and against any claim, penalty, losses, damages, or expenses that might be made, imposed, suffered, or incurred due to an asserted or established violation of any such laws, ordinances, rules, regulations, codes or standards.

- 5.2 The Consultant is solely responsible for all payments or deductions required to be made by any enactment, including but not limited to Canada Pension Plan, employment insurance, workers' compensation premiums, and income tax.
- 5.3 The Consultant will register for, obtain, and maintain their own separate WorkSafe BC Insurance Coverage, when required by WorkSafe BC and the *Workers Compensation Act*. When WorkSafe BC Insurance coverage is required, the Consultant will provide proof of Good Standing to the City before the Consultant starts work for the City and again before the City makes final payment to the Consultant.
- 5.4 The Consultant will comply with the WorkSafe BC Occupational Health and Safety Regulation and the *Workers' Compensation (WC) Act*. Any WorkSafe BC violation by the Consultant may be considered a breach of contract resulting in possible termination or suspension of the contract and/or any other actions deemed appropriate at the discretion of the City. The Consultant is required to retain Prime Contractor status as per WorkSafeBC requirements for their scope of work except when the general contractor assumes the role of prime contractor. Any penalties, sanctions or additional costs levied against the City, because of the actions of the Consultant are the responsibility of the Consultant.
- 5.5 The Consultant shall provide evidence that the Consultant has registered for a GST account to the City within five (5) business days of the date on which the Consultant executes this Agreement.
- 5.6 The laws of the Province of British Columbia shall govern the Agreement. Any disputes between the Consultant and the City arising out of or in connection with this Agreement shall be referred to the British Columbia International Commercial Arbitration Centre for arbitration under its applicable rules and resolved by a single arbitrator mutually agreed to by both parties.

6.0 Relationship

- 6.1 It is expressly agreed, represented, and understood that the Consultant's relationship to the City is that of an independent contractor and that the Consultant is not an employee, agent, or servant, of the City. Further, this Agreement shall not be deemed to constitute or create any partnership, joint venture, master-servant, employer-employee, principal-agent, or any other relationship apart from an independent contractor relationship under which the Consultant provides services for which the City will be invoiced according to the terms and conditions of this Agreement.
- 6.2 The manner and means by which the Consultant conducts its work in order to provide the Services contemplated by this Agreement are under its control, but the Consultant shall ensure the Services are performed on a timely basis and to a reasonable standard of care, skill, and diligence.

7.0 Compensation and Records

- 7.1 In consideration of the performance of the Services, the City shall pay the Consultant **[contract price]** including **[or excluding]** disbursements and excluding the Goods and Services Tax (GST), the Maximum Authorized Expenditure. The City may increase the Maximum Authorized Expenditure by issuing a written and signed Change Order.

- 7.2 Other than as expressly provided in this Agreement, the Consultant is solely responsible for all costs associated with providing the Services under this Agreement, including without limitation all membership costs, travel costs, professional costs, and educational costs.
- 7.3 The Consultant shall keep proper accounts and records for the performance of the Services, including invoices, receipts and vouchers, and shall preserve and keep available for audit and inspection all records described above for at least 2 years after the Term or earlier termination of this Agreement.
- 7.4 The City retains the right to access and audit the Consultant's files and records related to the City's business with twenty-four (24) hours' notice during normal business hours.

8.0 Application For Payment

- 8.1 The Consultant shall submit invoices to the City on or before the tenth (10th) day of each month. The City, if it approves the amount of such invoices, shall pay such invoices within twenty (20) days from the invoice date.
- 8.2 Each invoice will show an itemized list of services and costs incurred for each of the tasks outlined in the Scope of Work. In addition to an itemized invoice, each invoice submitted by the Consultant will clearly include the total amount of services and disbursements and total for each task; the total to date for each task; and the total payable for the invoice.
- 8.3 The Consultant shall attach to each invoice a brief report detailing the work completed to date, work completed during the month covered by the invoice, and work outstanding to complete the Services.
- 8.4 Notwithstanding any to the contrary in this Agreement, the City shall never be obligated to pay the Consultant a greater percentage of total fees and disbursements than the degree of percentage complete of the total Services.
- 8.5 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning the Consultant's invoices, for whatever reason, the City shall not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted, until that date that invoice is paid. The City, if it approves the amount of such invoices, shall pay such invoices on or before the twentieth (20th) day of the following month.

9.0 Indemnification

- 9.1 The Consultant shall, on its own behalf and on behalf of all persons and corporations working by, through or under the Consultant, indemnify and save harmless the City and its elected officials, employees, officers, and agents from and against all liabilities, losses, damages, claims, costs, expenses (including legal fees and disbursements), suits, and judgements arising out of or related to the provision of the Services by the Consultant that are found to be negligent.
- 9.2 This indemnification shall not apply:
- a) where the liabilities, losses, damages, claims, costs expenses, suits or judgements result from the City acting on the advice of, or receiving direct service from, the sub consultants or employees of the sub consultants of the Consultant and without the knowledge or consent of the Consultant; **or**
 - b) to the extent that the City, its employees, officers, or agents were negligent.

9.3 The Consultant's liability to indemnify the City and its elected officials, employees, officers, and agents shall not limit or affect any other rights or remedies the City may have against the Consultant in respect of the Services or a breach of this Agreement.

10.0 Change To Scope Of Service

10.1 The City may vary at any time the Scope of Work to be provided by the Consultant as part of the Services. In that case and where this Agreement contains a limit as to the maximum fees and disbursements to be paid to the Consultant for all or any part of the Services, such limit or limits shall be adjusted as agreed to by both parties in writing.

10.2 Should the Consultant consider that any request or instruction from the City constitutes a change in the scope of the work; the Consultant shall so advise the City within ten (10) days in writing. Without said written advice within the period specified and written agreement between the parties, the City shall not be obligated to make any payments of additional fees to the Consultant.

11.0 Insurance

11.1 The Consultant shall provide, maintain and pay for the following insurance which shall be in place with such insurance company or companies and in such form as may be acceptable to the City:

- a) Professional Errors and Omissions Liability Insurance protecting the Consultant, any subcontractors and their respective servant(s), agent(s) or employee(s) against any loss or damage arising directly or indirectly out of the professional services rendered by the Consultant, any subcontractor, servant(s), agent(s), or employee(s) under the contract. Such insurance shall be for an adequate amount acceptable to the City and shall in any event be not less than two million dollars (\$2,000,000.00) inclusive any one occurrence. The Consultant shall not be entitled to payment for services resulting in errors or omissions for which the Consultant is held responsible.
- b) Commercial General Liability Insurance of not less than five million dollars (\$5,000,000.00) inclusive any one occurrence.

11.2 Before undertaking any part of the Services, the Consultant shall furnish to the City certificates showing that such insurance is in force. Such certificates shall provide that the insurance is non-cancellable except upon thirty (30) days prior written notice to the City.

12.0 Ownership, Copyright and Work Product

12.1 The Consultant irrevocably grants the City an unrestricted licence for the City to use for any purpose all intellectual property, including drawings, plans, specifications, reports and other documents produced by the Consultant in relation to the Services. The Consultant agrees that the licence granted by this section includes the right for the City to adapt, use and modify such intellectual property for any purpose, and for those purposes, the Consultant waives the Consultant's moral rights to the work produced by the Consultant in relation to the Services.

12.2 The Consultant shall deliver to the City, upon request and at no additional cost to the City, at least one complete set of all drawings, estimates, programs, or other documents produced in connection with the Agreement, on a compact disk (CD) in Microsoft Office format.

13.0 Assignment

13.1 The Consultant without the express written consent of the City may not assign this Agreement.

14.0 Engagement Of Other Consultants

14.1 The City reserves the right at its own discretion to engage any other consultant in relation to the Services during the Term.

15.0 Waiver

15.1 No term of this Agreement shall be deemed to have been waived by a party unless written waiver from the other party has been first obtained, and no condoning, excusing or overlooking of any default on previous occasions, or any earlier written waiver shall operate as a waiver in respect of a subsequent default.

16.0 Entire Agreement

16.1 This Agreement is the whole of the Agreement between the parties and sets forth all the warranties, representations, covenants, promises, terms, and conditions between the parties and there is no other written or oral express or implied terms, conditions, warranties, representations or promises not reduced to writing and set out in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective seals to be affixed as of the day and year first above written

**THE AUTHORIZED SIGNATURE FOR
THE CORPORATION OF THE CITY OF
NEW WESTMINSTER:**

[name of City authorized representative and office]

Accepted and Agreed on

_____, 2016

By

[name of consultant]

Authorized Signature

Name and Office



Corporation of the City of
NEW WESTMINSTER

NWRFP-16-37

APPENDIX C

Site Plan Proposed for Tow Yard
(shaded red)

