



## REQUEST FOR PROPOSAL

**NWRFP-17-15**

### **Ferry Operator - Quayside to Queensborough Passenger Ferry**

**Closing Time:**

Thursday, June 15, 2017  
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 :**

**Purchasing: Heather Rossi**

Intermediate Buyer

Telephone: 604-515-3781

Email: [nwpurchasing@newwestcity.ca](mailto:nwpurchasing@newwestcity.ca)

<b>COMPANY NAME</b>		
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.

**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 formed between the City and 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** **“Mandatory” “Must” “Shall” “Will”** mean a requirement that must be met.
- 1.4** **“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.
- 1.5** **“Project”** means the scope of Services identified within the RFP documents.
- 1.6** **“Proponent”** means a person, firm, or corporation that responds to this RFP.
- 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 seeking a qualified operator to provide a demonstration passenger ferry service between the Downtown/Quayside and Queensborough neighbourhoods in New Westminster. In order to establish this operation, the City is seeking proposals from individuals or firms qualified and experienced in operating passenger ferries.

### **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-17-15**  
**Ferry Operator - Quayside to Queensborough Passenger Ferry**  
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 <https://www.newwestcity.ca/business-and-economy/doing-business-with-the-city/request-for-bids-and-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 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 the City is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (FOIPPA) ("Act"). A Proponent may stipulate in their Proposal that a portion(s) of their Proposal that contains confidential information and are supplied to the City in confidence. However, under FOIPPA, the City may nevertheless be obligated to disclose all or part of a response pursuant to a request made under the Act, even if the Proponent has stipulated that part of their Proposal is supplied in confidence. The Proponent should review Section 21 and other provisions of FOIPPA in order to gain a better understanding of the City's disclosure responsibilities under the Act.

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### 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

### 4.8 PERMITS AND LICENSES

The successful Proponent may be required to obtain a City of New Westminster or MetroWest 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 2017 for the Lower Mainland is \$20.62, 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/>

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.

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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 Page](#) for further information.

### **6.0 BACKGROUND**

- 6.1** The City is seeking a qualified operator to provide a demonstration passenger ferry service between the Downtown/Quayside and Queensborough neighbourhoods in New Westminster. In order to establish this operation, the City is seeking proposals from individuals or firms qualified and experienced in operating passenger ferries.
- 6.2** The Downtown/Quayside ferry terminal will operate from a 40' x 8' float, assuming 18-24" of freeboard (to be confirmed prior to award of contract) located beneath the Inn at the Quay in a berth next to the Samson V Museum. Ferry vessels may be moored at this location overnight.
- 6.3** The Queensborough ferry terminal will operate from a 30' x 15' public dock with 18-24" of freeboard (to be confirmed prior to award of contract) located in the Port Royal neighbourhood.
- 6.4** The City will be responsible for providing and maintaining ferry terminals, communications, marketing, and promotion of the service.

### **7.0 TERMS OF REFERENCE**

- 7.1** Ferries must accommodate a minimum of 12 passengers and 4 bicycles and be capable of transporting a minimum of 36 passengers and 12 bicycles in each direction per hour.
- 7.2** All operators and their crew and vessels must possess all required certifications and have the necessary experience and capabilities to operate in all potential Fraser River conditions within the service area, including wind, current, tides, and the presence of other marine traffic.
- 7.3** Operators must demonstrate that vessels provided for the service have low emissions and noise levels. Operators will not be permitted to allow engines to idle while docked at the ferry terminals.
- 7.4** Operators must demonstrate that they have all necessary insurance in place, for all aspects of the Ferry Service, including but not limited to operations, facilities, and moorage of vessels outside of operating hours.
- 7.5** Ferries must be maintained in a good state of repair and a high state of cleanliness and order at all times.
- 7.6** Operators must demonstrate that a contingency plan is in place to ensure service continuity in the event of mechanical failure, accident, crew absence (including illness), or other potential operational disruptions.
- 7.7** Operators will collect the prescribed fare, including cash or tickets, provide an accounting of all transactions and revenues, and remit all ticket revenue to the City's finance department on a weekly basis.

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**7.8** The ferry operator will be required to report on the number of passengers on each sailing, classified by estimated age i.e. senior (Over 65) adult (20-65), youth (12-20) and child (under 12). In addition, the number bicycles, strollers, mobility aids and other additional equipment brought on board by passengers must be noted. The selected operator will be responsible for collecting this data and preparing weekly reports to the City's project manager.

### **8.0 PROPONENT QUALIFICATIONS**

**8.1** The Proponent must be able to show that they have experience in the following:

- a) A minimum of five (5) years proven experience in operating a ferry or water taxi service;
- b) Meet all regulatory requirements from Transport Canada, Port of Vancouver, Council of Marine Carriers, and other applicable agencies.

### **9.0 SCHEDULE**

**9.1** Ferry service should begin operations on Saturday, July 1, 2017 and operate on weekend days and holiday Mondays until Monday, September 4, 2017.

**9.2** Daily operating hours will be 9:00 am to 7:00 pm; additional hours of operation may be requested from time to time.

**9.3** Ferries will be required to depart each terminal at 20 minute intervals (i.e. 3 sailings per hour in each direction) during operating hours, unless otherwise directed.

### **10.0 PROPOSAL FORMAT AND PREPARATION**

**10.1** Proposals should be provided double sided on 8 1/2" x 11" 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; and
- e) References from similar projects

**10.2** The City is seeking Proposals from Proponents who are interested and capable of undertaking the Project. The onus is on the Proponent to show their knowledge, understanding, and capacity to conduct the work outlined in this Request for Proposal.

**10.3** 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 description of the proposed service, including a description of the vessel(s) that would be utilized to provide the service, and other considerations to ensure successful implementation;
- c) The cost to provide the service as described in this RFP, in the form of a spreadsheet showing the proposed level of effort and fees for each stage of the project. The cost estimate should provide a separate price for regular weekly fixed operational costs, such as crew, as well as variable costs such as fuel;
- d) An estimate of project related disbursements and charge-out schedule for personnel and disbursements in general (refer to Section 11.3 and 11.4). The Proponent may not add overhead costs to disbursements;
- e) The Project manager assigned to the project and their experience and qualifications;

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- f) An indication of similar projects undertaken by the Proponent;
- g) Names of three references of clients who have undertaken similar work; the City may contact the references to assess the performance of the Proponent.

### 11.0 **PRICING**

11.1 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.

11.2 Separate fixed fees and variable rates should be included for the operation of the ferry service.

11.3 The following expenses **must be included** in the fixed, lump sum fee proposal:

- a) All cost associated with fax, photocopier and long distance telephone calls;
- b) All documentation required to address day to day management of the Project;
- c) All indirect (or overhead) expenses incurred in the course of operating a firm including local travel expenses;
- d) All costs associated with the necessary insurance coverage.

11.4 The disbursements which will be reimbursed **at cost** will include the following:

- a) Reproduction of client requested drawings and reports;
- b) Delivery of drawings, reports including courier, postage etc.;
- c) All necessary documents required to obtain all permits and approvals from the authorities having jurisdiction.

### 12.0 **PROPOSAL EVALUATION AND SELECTION**

12.1 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.

12.2 The City is not obligated to accept the lowest priced Proposal or any Proposal, and may reject all submissions.

12.3 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.

12.4 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.

12.5 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.

12.6 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.

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- 12.7** 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.
- 12.8** Proposals will be evaluated based on the following criteria (enter your criteria):
- a) Demonstrated understanding of the assignment;
  - b) Related experience;
  - c) Proposed approach to fulfilling the requirements of the assignment, including the vessel(s) that would be used;
  - d) References;
  - e) Cost.
- 12.9** Proposed project teams must be capable of completing all identified tasks; the City will not consider partial submissions.
- 13.0** **REFERENCES**
- 13.1** **NOTE: Failure To Provide References May Result In Disqualification**
- 13.2** 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. The City of New Westminster may be used as a reference if work of a similar nature has been provided to the City).



Corporation of the City of  
**NEW WESTMINSTER**

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**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-17-15**

**APPENDIX B**

**Draft Services Agreement**

## DRAFT SERVICES AGREEMENT

This Agreement made the \_\_\_ day of \_\_\_\_\_, 20\_\_ is

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

(the “City”)

**AND: [NAME].**  
[address]

(the “Service Provider”)

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

### **1.0 Services**

- a) The Service Provider agrees to perform the consulting services (herein called the “Services”) detailed in the **Proposal** which is attached to and forms part of this Agreement. (see Appendix A).
- b) The Service Provider represents that the Service Provider 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 services similar to those Services contemplated by this Agreement.
- c) The Service Provider will not act for any party, during the term of this Agreement, 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 Service Provider 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 Service Provider will immediately inform the City in writing.

### **2.0 Duration And Termination**

#### **2.1 Duration**

- a) The 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 Service Provider 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 Service Provider will provide a written fee quote. The Service Provider 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 – immediately, if, by an act or omission, the Service Provider breaches a term of this Agreement or in the event that City determines, in its sole and unfettered discretion, that the performance of the Service Provider is, in the opinion of the City, unsatisfactory, and the Service Provider has failed to correct the default or deficiency to the City’s satisfaction within five (5) business days of receiving written notification of that default or deficiency from the City
  - ii) With Notice – the City may terminate this Agreement for any reason or no reason by providing fourteen (14) days’ written notice to the Service Provider by the City.
- b) This Agreement may be terminated by the Service Provider by providing sixty (60) days’ written notice to the City.
- c) Upon termination of this Agreement, the City will pay the Service Provider for all work performed up to the effective date of termination. All other obligations of the City to the Service Provider will terminate upon the termination or expiry of this Agreement.
- d) Acts or omissions by the Service Provider which shall justify termination of this Agreement for default or deficiency 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 Service Provider represented the Service Provider as competent to perform; or
  - 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 Service Provider accepts that any information relating to the business affairs of the City is confidential and that any disclosure by the Service Provider 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 Service Provider that parts, or all, of this Agreement and documents legally connected to this Agreement may be subject to the provisions of British Columbia's *Freedom of Information and Protection of Privacy (FOIPPA)* and the *Community Charter*. Should the Service Provider wish to ensure particular parts of this Agreement are protected from disclosure under the *FOIPPA*, the Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider will provide proof of Good Standing to the City before the Service Provider starts work for the City and again before the City makes final payment to the Service Provider.
- 5.4 The Service Provider will comply with the WorkSafe BC Occupational Health and Safety Regulation and the *Workers' Compensation (WC) Act*. Any WorkSafe BC violation by the Service Provider may be considered a breach of this Agreement resulting in possible termination or suspension of this Agreement and/or any other actions deemed appropriate at the discretion of the City. Any penalties, sanctions or additional costs levied against the City, because of the actions of the Service Provider are the responsibility of the Service Provider.
- 5.5 The Service Provider shall provide evidence that the Service Provider has registered for a GST account to the City within five (5) business days of the date on which the Service Provider executes this Agreement.
- 5.6 The laws of the Province of British Columbia shall govern this Agreement. Any disputes between the Service Provider 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 Service Provider's relationship to the City is that of an independent contractor and that the Service Provider 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 Service Provider provides services for which the City will be invoiced according to the terms and conditions of this Agreement.
- 6.2 The manner and means, including any necessary tools, equipment and supplies, by which the Service Provider conducts its work in order to provide the Services contemplated by this Agreement are under its control, but the Service Provider 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 Service Provider **[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 Service Provider 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 Service Provider 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 two (2) years after the Term or earlier termination of this Agreement.
- 7.4 The City retains the right to access and audit the Service Provider'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 Service Provider shall submit invoices to the City on or before the tenth (10<sup>th</sup>) 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider'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 (20<sup>th</sup>) day of the following month.

## **9.0 Indemnification**

- 9.1 The Service Provider shall, on its own behalf and on behalf of all persons and corporations working by, through or under the Service Provider, 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 Service Provider 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 Service Providers or employees of the sub Service Providers of the Service Provider and without the knowledge or consent of the Service Provider; **or**
  - b) to the extent that the City, its employees, officers, or agents were negligent.
- 9.3 The Service Provider'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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider consider that any request or instruction from the City constitutes a change in the scope of the work; the Service Provider 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 Service Provider.

#### **11.0 Insurance**

- 11.1 The Service Provider 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) Commercial General Liability Insurance of not less than five million dollars (\$5,000,000.00) inclusive per occurrence against death, bodily injury, personal injury and property damage arising directly or indirectly out of the work or operations of the Service Provider, subcontractors, servants(s), agent(s) or employee(s). The insurance policy will be endorsed to add the City of New Westminster, its officials, employees and agents as Additional Insured and will include cross liability and severability of interests.
- 11.2 Before undertaking any part of the Services, the Service Provider 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 Sub-contractors**

- 12.1 If the Service Provider retains or employs any sub-contractor(s) or other parties to assist in the performance of the Services, then the Service Provider shall incorporate into any agreement with and shall bind such sub-contractor(s) and other parties to all of the terms of this Agreement. The Service Provider shall be responsible for such sub-contractor's and other parties' work, and for overseeing and coordinating such sub-Service Providers' or other parties' work.

**13.0 Ownership, Copyright and Work Product**

13.1 The Service Provider 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 Service Provider in relation to the Services. The Service Provider 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 Service Provider waives the Service Provider’s moral rights to the work produced by the Service Provider in relation to the Services.

13.2 The Service Provider 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 this Agreement, on a compact disk (CD) in Microsoft Office format.

**14.0 Assignment**

14.1 The Service Provider without the express written consent of the City may not assign this Agreement.

**15.0 Engagement Of Other Service Providers**

15.1 The City reserves the right at its own discretion to engage any other Service Provider in relation to the Services during the Term.

**16.0 Notice**

16.1 Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by fax, addressed as follows:

To the Service Provider:

[Name]  
[Address]

Attention: [Name] \_\_\_\_\_

Fax No.: (604) \_\_\_\_\_

To the City:

Corporation of the City of New Westminster  
511 Royal Avenue  
New Westminster, BC V3L 1H9

Attention: \_\_\_\_\_

Fax No.: \_\_\_\_\_

or to such other address or fax number of which notice has been given as provided in this section. Any notice that is delivered is to be considered given on the first business day after it is delivered. Any notice sent by fax is to be considered given on the first business day after it is sent. If a party changes its address or fax number, or both, it must promptly give notice of its new address or fax number to the other party as provided in this section.

**17.0 Waiver**

17.1 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.

**18.0 Time of the Essence**

18.1 Time shall be of the essence in this Agreement.

**19.0 Entire Agreement**

19.1 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

\_\_\_\_\_, 2017

By

[name of Service Provider]

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Office