



REQUEST FOR PROPOSAL

NWRFP-20-23

Flood Management Strategy Update

The City is seeking submissions from qualified Proponents for a **Flood Management Strategy Update** in **New Westminster** including Flood Risk Assessment, Flood Mapping and Flood Mitigation Planning

Closing Time:

Wednesday, December 16, 2020
3:00 PM, Local Time, Vancouver BC

Closing Location:

upload to <https://fileshare.newwestcity.ca/filedrop/~sS3M7G>

Further requests for information :

Purchasing: Gilbert Matembe, SCMP, PMP
Intermediate Buyer

Email: nwpurchasing@newwestcity.ca

PROPONENT NAME		
Street Address:		
City Province Postal Code		
Contact Name:		
Telephone number:		Fax:
Email		Date:
Signature: by authorized signatory		

By my signature above, it shall be understood that I have read, understood and accept the requirements outlined in the Request for Proposal; we hereby propose to supply the Services in accordance with the Request for Proposal and as outlined in this Form of Proposal.

CORPORATION OF THE CITY OF NEW WESTMINSTER

PART 1

RFP PROCESS & GENERAL REQUIREMENTS

1.0 GENERAL INFORMATION

- 1.1** The City of New Westminster is seeking a multi-disciplinary consulting team to update the City's Floodplain Management Strategy – Feasibility Plan. The Engineering Department will be managing the Project which will consist of a lead consultant working with various sub-consultants as needed. The project is tied to City Strategic Asset Management Plan, Envision Sustainability Plan, Council's strategic priority in Facility, Infrastructure and Public Realm, and Climate Action Bold Steps. Refer to Part 2 – BUSINESS REQUIREMENTS for an in-depth scope of work.
- 1.2** The City of New Westminster is the first city in Western Canada and is located at the centre of Metro Vancouver. Just 20 km from downtown Vancouver, the City has both major transportation routes and railways running through its boundaries.
- 1.3** This is a request for proposals, and not a call for tenders or request for offers and no contractual obligations shall arise between the City and a Proponent upon the Proponent's submission of a Proposal to the City.
- 1.4** The city, at its discretion, reserves the right to;
- a) select a Proposal that deviates from the requirements of this RFP;
 - b) modify this RFP at any time.
- 1.5** Proponents will be solely responsible for their own expenses incurred in connection with this RFP, including in preparing and submitting a Proposal and in any subsequent negotiations with the City.
- 1.6** This RFP shall be governed by and construed in accordance with the laws of the Province of British Columbia.
- 1.7** The City reserves the right to negotiate with the lead Proponent deemed to provide the best overall value and such negotiations may include, but are not limited to:
- a) Changes to the requirements or Scope of Work proposed by the Proponent;
 - b) Price; and
 - c) Specific contract details as deemed reasonable for negotiations by the City.
- 2.0 COVID-19 GLOBAL PANDEMIC**
- 2.1** Due to the COVID 19 global pandemic, the City may be required or decide not to proceed with the Work or to terminate any contract prior to the Work commencing. If this occurs, the City will only pay for actual costs incurred by the consultant.
- 2.2** In submitting a Proposal, the Proponent acknowledges the presence of the COVID-19 virus in Canada and other jurisdictions. The Proponent also acknowledges the consequences and impacts "Known Impacts" of the COVID-19 Pandemic existing as of the date of this Request for Proposal, and said "Known Impacts" have been accounted for by the Proponent within the schedule and pricing.

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3.0 PROPOSAL INSTRUCTIONS

- 3.1** Proposals should be submitted electronically in one (1) readable Adobe (PDF) file with Subject “**NWRFP-20-23 Flood Management Strategy Update**” in the Subject <https://fileshare.newwestcity.ca/filedrop/~sS3M7G>
- 3.2** The City will receive Proposals at the location and time indicated on the title page of this Request for Proposal.
- 3.3** It is the Proponent's responsibility to ensure that the City receives its Proposal prior to the closing time indicated on the title page of this Request for Proposal. The City does not accept facsimile or other unsealed Proposals.
- 3.4** 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 intends to 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 CONTRACT REQUIREMENTS

- 4.1** The City anticipates that any contract arising from this RFP will be based on the City's Consulting Services Agreement (Appendix C) and Statement of Work (Appendix B) completed by the consultant.
- 4.2** The contract will be “time and materials” based, with an upset limit of \$200,000 (excluding GST).
- 4.3** The City anticipates that the successful proponent will submit the final Flood Management Strategy by September 1st 2021.

5.0 OWNERSHIP OF PROPOSALS AND FREEDOM OF INFORMATION

- 5.1** All documents submitted with your Proposal will become the property of the City, and as such shall be subject to the disclosure provisions of the *BC Freedom of Information and Protection of Privacy Act (FOIPPA)* and *Community Charter*. A Proponent may stipulate in their Proposal that a portion(s) of their Proposal that contains confidential information and is supplied to the City in confidence. However, under FOIPPA, the City may nevertheless be obligated to disclose all or part of a Proposal in response 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.

6.0 INSURANCE, PERMITS AND LICENSES

- 6.1** 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 one million dollars (\$1,000,000)

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

7.0 LIVING WAGE EMPLOYER

7.1 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 current living wage rate for Metro Vancouver is \$19.50 per hour, assuming the employer provides no benefits.

7.2 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/living_wage_calculator

7.3 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.**

7.4 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.

8.0 EVALUATION AND SELECTION PROCESS

8.1 The City will evaluate all submitted valid Proposals. The City will not necessarily accept any or all 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 services requested.

8.2 The City will evaluate the requirements and only those deemed by the City to have the right experience/capabilities/methodology etc. will have their rates evaluated.

8.3 Proposals will be evaluated based on the following criteria:

Evaluation Criteria	Weighting
Company Profile (<i>Executive Summary</i>)	15
Understanding of Assignment, Approach, and ability to meet schedule	25
Project Team Qualifications, Experiences, and References	25
Value Added	10
Rates	25
Total	100

8.4 The City, at its discretion, may request any or all of the Proponents to present their proposals and/or interview with the Selection Committee. Note that any information provided by Proponents in their proposals or discussed in presentations/interviews may be incorporated into any Contract with the Proponent.

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8.5 The City advises all Proponents that the process for evaluation/interview and finalizing the lead/winning proponent may take 2 – 3 months.

9.0 **NEGOTIATIONS**

9.1 The award of a contract may be subject to negotiations with the lead Proponent that is deemed to provide the best value to the City. Such negotiations include, but not limited to, the following:

- a) Changes to the requirements or Scope of Work proposed by the Proponent
- b) Price; and
- c) Specific contract details as deemed reasonable for negotiations by the City

9.2 If a written contract cannot be negotiated within fourteen (14) days of notification with the lead Proponent, the City may, at its discretion at any time thereafter, terminate negotiations with the lead Proponent and either enter into negotiations with the next qualified Proponent or cancel the RFP or negotiate with another supplier.



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PART 2

BUSINESS REQUIREMENTS AND SCOPE OF WORK

CORPORATION OF THE CITY OF NEW WESTMINSTER

1.0 BACKGROUND

1.1 The City of New Westminster is the oldest incorporated city in the Province of British Columbia. Located on the north bank of the Fraser River, New Westminster covers twelve square kilometers of which five square kilometers are designated as floodplain areas. Within the floodplain, the land-use consists of commercial, industrial, single and multifamily residential properties. Approximately 350 hectares of land is dyke protected in Queensborough while 170 hectares is unprotected on the mainland. The current city population is approximately 75,000 and is projected to reach over 100,000 in 2040.

1.2 The City's Floodplain Management Strategy (FMS) was developed in 2009-2011 and consisted of two phases:

- a) The Conceptual Plan (2009) established appropriate level of flood protection, provided a recommended citywide approach to flood protection, and prioritized flood protection improvements. This entailed an assessment of risks, constraints, potential routes, and technical options for providing an acceptable level of protection
- b) The Feasibility Plan developed in 2010 and endorsed by City Council in April 2011 was developed to further establish details of the Flood Management Strategy based on the findings of the Conceptual Plan. Specifically, the Feasibility Plan:
 - 1) Provided a starting point and functional level city-wide flood protection maps/drawings for funding application;
 - 2) Planned and prioritized future flood protection projects;
 - 3) Assessed flood protection requirements for development permit applications and approvals;
 - 4) Identified land requirements for flood protection for long-term planning exercises.

2.0 BUSINESS REQUIREMENTS & SCOPE OF WORK

2.1 The City is seeking a multi-disciplinary consulting team to update the City's Floodplain Management Strategy – Feasibility Plan. The City's Engineering Department will be managing the Project which will consist of a lead consultant working with various sub-consultants as needed.

2.2 The project will focus on the update of the City's Floodplain Management Strategy – Feasibility Plan. Specifically the successful proponent will:

- a) Review the Flooding Consequences/Risk based on the most recent River Modelling completed by the Fraser Basin Council (FBC) as part of the ongoing development of the Regional Flood Management Strategy;
- b) Review of the desired level of Flood Protection based on Economic/Social/Environmental/Public Safety risk in alignment with ongoing work by FBC including climate change;
- c) Review of preferred dike alignment routes and corresponding constraints; it is expected there will be minimal or no changes to the preferred alignment;
- d) Update Feasibility Plan - Scope includes but not limited to the below considerations:
 - 1) Seismic Standards & Geotechnical considerations based on ongoing work by FBC and the current 2014 BC Seismic Design Guidelines for dikes;

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- 2) Climate change scenarios from ongoing work by FBC (Fraser River present day and 2050/2100 moderate climate change scenarios with 0.5m rise in sea level by 2050 and 1.0m rise by sea level in 2100;
 - 3) Environmental considerations including environmentally sensitive areas, contaminated areas and riparian areas;
 - 4) Inland storm-water management considerations;
 - 5) Inter-jurisdictional diking considerations including City of Richmond, City of Burnaby and City of Coquitlam diking masterplans;
 - 6) Develop flood maps indicating inundation levels, extent and duration of flooding in the floodplain areas for dike breach scenarios;
 - 7) Review of Flood Construction Levels (FCL) for the City's Mainland/Queensborough area (dike breach modelling will be beneficial) and recommend changes to flood proofing measures
 - 8) Review of other planning/development controls that may be beneficial as non-structural flood management alternatives;
 - 9) Review and update of dike geometry/right of way allowances/setbacks (current vs expected) including considerations for future dike raising, maintaining existing diking, superdikes etc.;
 - 10) Updated cost benefit analysis of diking improvements including lifecycle net present value analysis;
 - 11) Updated prioritization areas and list of proposed dike improvements including Class C cost estimates and schedule for improvements;
- e) Update of the City's Annual Freshet Response plan to align with the City's Emergency Management Protocols & Emergency Response Plan;
 - f) Review and Update of the City's Dike Inspections Forms and Dike O&M Manuals.

2.3 A site visit to obtain general understanding of the entire diking system is necessary. It is **not** expected that extensive field survey work will be required; however the City will consider adjustments to the scope and inclusion of a Field Program if it enhances the update to the Floodplain Management Strategy – Feasibility Plan

3.0 DELIVERABLES

3.1 The consultant will provide an updated Flood Management Strategy including:

- a) Feasibility Level Plan Report;
- b) Scale 1:200 Functional Level Diking Map/Drawings;
- c) Diking Cost Estimates (Class C);
- d) Emergency Response Plan for Annual Spring Freshet (Freshet Response Plan);
- e) Dike O&M Manual & Dike Inspection Forms;

3.2 The consultant will submit the final Flood Management Strategy by September 1st 2021.

4.0 PROPONENT QUALIFICATIONS

4.1 The proponent will have extensive experience in the development of flood management strategies/protocols/policies/plans etc. and in the design, construction & operation of flood control works in the Lower Mainland and BC.

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5.0 SUBMISSION REQUIREMENTS

5.1 Proposals should not exceed ten (10) 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 include and clearly identify:

- a) **Cover Page:** Front page of this RFP with the required information filled out and signed.
- b) **Executive Summary:** (1 page) including a brief history of the firm, overview of overall ability and expertise, and experience and competencies in providing deliverables similar in nature to those identified for this project, i.e. Flood Management
- c) **Understanding of assignment and Approach:** Provide a brief outline of the Proponent’s understanding of the project and a detailed work program and methodology to successfully achieve the objectives, i.e. Flood Risk Assessment, Flood Mapping and Flood Mitigation Planning.
 - 1) Provide a schedule of activity from date of award to completion, including a labour summary matrix that provides person-hour estimates for each of the work activities proposed
- d) **Project Team/Experience:** Provide the proposed project team complete with brief bios, describing each person’s position in your firm, their role on this project and their qualifications and experience with Flood Risk Assessment, Flood Mapping and Flood Mitigation Planning. Resumes with further details can be included in an appendix.
 - 1) Provide a list of similar Flood Management strategy development projects undertaken by your team.
 - 2) How familiar is your team with Flood Management programs of other municipalities on Lulu Island, across Metro Vancouver and of the ongoing work by the Fraser Basin Council in the development of a Regional Flood Management Strategy?
 - 3) Provide a summary org chart of the proposed team members illustrating reporting structure.
- e) **Rates/Costs:** Provide hourly rates for each team member proposed for this project. Also provide any additional costs that may be associated with this project.
- f) **Value Added:** Describe any other service(s) you are willing to offer to the City of New Westminister beyond the core service described in the scope of work. How do these services set your firm and proposed team apart from other organizations with respect to this project?
- g) **Statement of Work:** Include a draft Statement of Work (SOW) with your submission. A Statement of Work (SOW) is a narrative description of the required work. It stipulates the deliverables or services required fulfilling the contract, and it defines the task to be accomplished or services to be delivered in clear, concise, and meaningful terms. The final SOW will be developed by the City and the successful Proponent and will be included in the Agreement. A sample Statement of Work is included in this RFP as Appendix A.
- h) **Living Wage Declaration:** As per Part 1, section 7.
- i) **References:** Complete the attached table of references below

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REFERENCES

Please provide three (3) references for companies whom your organization has completed Flood Management Strategy Updates 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.

Reference 1	
Company Name and Address	
Contact Name	
Telephone Number	
Email address	
Brief Description of services provided	

Reference 2	
Company Name and Address	
Contact Name	
Telephone Number	
Email address	
Brief Description of services provided	

Reference 3	
Company Name and Address	
Contact Name	
Telephone Number	
Email address	
Brief Description of services provided	

- 1.1 The City reserves the right to contact the references to confirm the nature and performance of the work provided by the Proponent. The City reserves the right to seek a reference from sources other than those provided by the Proponent.



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APPENDIX A

STATEMENT OF WORK TEMPLATE – (SOW)

CORPORATION OF THE CITY OF NEW WESTMINSTER

Primary Contact Information	
Owner	City of New Westminster
Project Name:	Flood Management Strategy Update
City Project Manager:	
Telephone No.:	
Email Address:	
Mailing Address	511 Royal Avenue New Westminster, BC V3L 1H9
Consultant Name:	
Project Manager:	
Telephone No.:	
Email Address:	
Mailing Address	

Introduction
<p>This Statement of Work has been prepared for the Flood Management Strategy Update. This Statement of Work document outlines key project information, including objectives, scope of work, tasks, milestones/schedule, deliverables, and standards and testing specification documents that will be used. It also outlines how project success will be defined, and how the project will be budgeted and invoiced.</p>

Project Objective
Enter the Project Objective(s)

Scope of Work
<p>List (in point form) the scope of work:</p> <ul style="list-style-type: none"> • Task 1 • Task 2 • Task 3 • etc

City's Responsibilities
<p>List what the City will do / provide</p> <ul style="list-style-type: none"> • Item 1 • Item 2 • Item 3

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- etc

Tasks
<p><i>-Detailed tasks as outlined in proposal document.</i></p> <ul style="list-style-type: none"> • Task 1 • Task 2 • Task 3 • Etc •

Milestone/Schedule	

Deliverables	
<ul style="list-style-type: none"> • Item 1 • Item 2 • Etc • 	<ul style="list-style-type: none"> •

Standards & Testing

Define Success
<p>Project success will be defined by clear project goals being accomplished on time and on budget. This section will be fully detailed in consultation with the client to ensure their success targets</p>

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Schedule of Fees	
<i>-As outlined in the proposal document.</i>	
Project Name	
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APPENDIX B

DECLARATION – LIVING WAGE EMPLOYER

CORPORATION OF THE CITY OF NEW WESTMINSTER



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:



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APPENDIX C

CONSULTANT SERVICES AGREEMENT

CONSULTING SERVICES AGREEMENT

This Agreement made the ___ day of _____, 20__ 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 **Statement of Work** 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, 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 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 – immediately, 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, and the Consultant 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 by providing fourteen (14) days’ written notice to the Consultant by the City.
- b) This Agreement may be terminated by the Consultant by providing fourteen (14) days’ written notice to the City.
- c) 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.
- d) Acts or omissions by the Consultant 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 Consultant represented the Consultant 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 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. 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 two (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 receipt of the invoice.
- 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 one million dollars (\$1,000,000.00) 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 per occurrence against death, bodily injury, personal injury and property damage arising directly or indirectly out of the work or operations of the Consultant, subcontractors, servants(s), agent(s) or employee(s). The insurance policy will be endorsed to add the Corporation of 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 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 – select 1 or 2

- 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 **OR:** The Consultant hereby sells, assigns and transfers to the City the right, title and interest required for the City to use and receive the benefit of all the reports, drawings, plans, designs, models, specifications, computer software, concepts, products, designs or processes or other such work product produced by or resulting from the Services provided by the Consultant

12.3 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:

Patrick Shannon, SCMP
Purchasing Manager

Accepted and Agreed on
_____, 2019

By

[name of consultant]

Authorized Signature

Name and Office