



## REQUEST FOR PROPOSAL

**NWRFP-18-03**

### Queen's Park Conservation Area: Heritage Value Assessment Study

**Closing Time:**

Wednesday, February 21, 2018  
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 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 research and assessment study 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 undertaking the next steps in the implementation of the Queen's Park Neighbourhood Heritage Conservation Area ("Conservation Area"). The next steps include identifying incentives for protected properties in the Conservation Area, and evaluating the properties in the Special Limited category of the Conservation Area. The outcomes of this work will be implemented throughout the next two years, and will also inform the overall Conservation Area policy review in 2019.

The Special Limited Category Review will evaluate the 76 properties in the Special Limited category to determine if they should be further protected (i.e. reclassified into the Advanced category), or not protected (i.e. reclassified into the Limited category). The review will be informed by the outcomes of the incentives development work, and will include three studies: 1) heritage value assessments; 2) a development potential study; and 3) an economic analysis. At this time, the City requires a qualified consultant to undertake study (1).

The Heritage Value Assessment Study ("Assessment Study") is expected to provide an assessment for each of the 76 properties in the Special Limited category to establish the individual heritage value of each principal residence. The Assessment Study must also include the evaluation steps used and the overall basis for evaluation, which must be founded on the six types of value (aesthetic, historic, scientific, cultural, social or spiritual), as outlined in the Standards and Guidelines for the Conservation of Historic Places in Canada, which were endorsed by Council for use in heritage evaluation in 2008. The Assessment Study will be used to inform the next steps of the review process.

The Assessment Study will be informed by the previous work of the Queen's Park Neighbourhood Heritage Study Working Group and staff, which identifies the character defining elements of the Queen's Park neighbourhood as a whole. In addition to the individual heritage value of each property, the Assessment Study will comment on the role of each in maintaining the overall neighbourhood heritage character.

### 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-18-03**

#### **Queen's Park Conservation Area: Heritage Value Assessment Study**

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>

## CORPORATION OF THE CITY OF NEW WESTMINSTER

### **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 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.

#### **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 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.

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### **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 2018 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.

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 Queen’s Park Neighbourhood**

The Queen’s Park Neighbourhood of New Westminster is bounded on the north by Sixth Avenue, on the south by Royal Avenue, on the west by Sixth Street, and on the east by the 75.5 acre Queen’s Park. There are approximately 700 residential properties in the Queen’s Park neighbourhood. Most properties are zoned Residential Single Detached District (RS-1) and the majority take the architectural form of a single detached house, though some of those dwellings include multiple units. The majority of the houses in the neighbourhood (approximately 40%) were built between 1900 and 1930 during the city’s economic boom. However, this neighbourhood is home to the oldest residential dwellings in the city, dating as far back as the 1860s. There is a very high number of original buildings in the neighbourhood, and it is considered to be one of the oldest residential neighbourhoods in British Columbia.

#### **6.2 Heritage Value of the Neighbourhood**

The unique heritage character of the Queen’s Park neighbourhood has been acknowledged by the City and the community for many years. Though Queen’s Park is not the only historic neighbourhood in the city, it maintains a large inventory of historic homes, and the development of the area is reflective of New Westminster as a city; including homes from the early settlement, through wartime, to industrial boom. As identified in the Neighbourhood Heritage Study (2013-2016), the character of the Queen’s Park neighbourhood is often cited as the reason people choose to live there. It is also seen to be an integral aspect of the overall New Westminster community. The City has created a Statement of Significance for the neighbourhood.

#### **6.3 Protection of Neighbourhood Heritage Value**

Concerns over loss of historic buildings and streetscape character in Queen’s Park have been longstanding. For example, Council directed staff to explore heritage conservation approaches in Queen’s Park in 1995, and in 2000, the Queen’s Park neighbourhood became a Historic District. Residents continued to indicate that the Historic District status was not sufficient in maintaining the important heritage and character elements of the neighbourhood. In the fall of 2013, Council

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launched the Queen's Park Neighbourhood Heritage Study and established the Queen's Park Neighbourhood Working Group to explore heritage conservation options for the area. The Working Group provided its final recommendations to Council on April 25, 2016, including that the City look into establishing a Heritage Conservation Area for the Queen's Park neighbourhood in order to provide both design control for new buildings, and heritage protection for its older properties.

### 6.4 Queen's Park Heritage Conservation Area

On June 13, 2017, Council adopted the Queen's Park Heritage Conservation Area, Design Guidelines, and administrative policy. The Heritage Conservation Area includes all properties zoned RS-1, RS-2, RS-5, or RS-6 within the Queen's Park neighbourhood. Properties within the Queen's Park neighbourhood zoned for Commercial (C), Institutional (P), Mid-rise multiple unit residential (RM), and Townhouse/ multiple unit residential (RT) are excluded from the Heritage Conservation Area, and not subject to the provisions.

### 6.5 The Conservation Area includes three levels of protection, primarily based on age of building:

- a) Advanced (protected) – properties with buildings constructed in 1940 or earlier, and those currently listed on the Heritage Register, or Designated. Requires a Heritage Alteration Permit for changes to the existing building, including demolition;
- b) Limited (not protected) – properties with buildings constructed in 1941 or later. Does not require Heritage Alteration Permits for any changes to the existing building; and,
- c) Special Limited – properties with buildings constructed in 1940 or earlier, not currently listed on the Heritage Register or Designated, but whose site characteristics may constrain or preclude them from taking advantage of density entitlements or potential zoning-based incentives. Currently only requires a Heritage Alteration Permit for demolition of the existing building.

In addition, all construction of new residential buildings requires a Heritage Alteration Permit. Non-dwelling accessory structures such as garages and sheds are excluded.

### 6.6 Special Limited Category

The Special Limited category was created in recognition that certain properties, due to physical characteristics of the lot and house, may not be able to realize economic value from possible incentives. This would mean that, despite the incentives implemented by the City in 3(b), these properties may experience a decrease in market interest due to a combination of the heritage protection provisions and site constraints. The purpose of the Special Limited Category Review would be to evaluate the heritage merit of each property against the potential for the property to achieve full development entitlements, including those of the proposed incentives. To inform this, the following studies will be conducted:

- a) A heritage value assessment of each Special Limited property, (which is the subject of the Request for Proposals);
- b) A development potential study, which would examine the extent to which the types of properties within the Special Limited category could be expected to be able to use the ultimately proposed incentives; and,
- c) An economic analysis of the types of properties within the Special Limited category taking into consideration the outcome of 7(b).



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At the conclusion of this study period, and as part of the formal policy review in 2019, the properties within the Special Limited category would be reclassified either as Advanced or as Limited, based on the above evaluation. After the review, staff would recommend that the Heritage Conservation Area and related bylaws be amended to categorize the subject properties, and the Special Limited category would no longer be in effect.

### **7.0 PROJECT BUDGET**

**7.1** The City has established a budget of \$65,000.00 for this study.

### **8.0 SCOPE OF WORK**

- 8.1** The Consultant will be responsible for conducting a review of existing materials, new research, and field visits to inform the work. The City will provide the available materials and information at the start of the contract (refer to Section 8.0 Materials Available to Successful Proponent for more information), and additional information and materials as available and requested.
- 8.2** The Consultant will be responsible for, upon reviewing the City's existing photographic library of Queen's Park houses, identifying and producing any additional photographs required to provide the Services.
- 8.3** The Consultant will be responsible for conducting best practice research and analysis to create a Property Heritage Value Assessment ("Property Assessment") for each of the 76 properties that:
- a) Identifies the heritage value of the individual property based on the merits of the property and building, including identification of key character defining elements;
  - b) Separately identifies the role and relative importance of the property in maintaining the overall heritage character of the Queen's Park neighbourhood, as defined by the Statement of Significance; and,
  - c) Provides a conclusion on overall heritage value of the property taking into consideration (a) and (b).
- 8.4** The Consultant will be responsible for preparing a Heritage Value Assessment Study that will include:
- a) Summary of methodology, including list of research sources;
  - b) Summary of basis of evaluation, which must be founded accepted types of heritage value as listed in the Standards and Guidelines for the Conservation of Historic Places in Canada (2010);
  - c) The Property Assessments;
  - d) Photo(s) of each property;
  - e) Any other supporting documentation considered necessary to understanding the Property Assessments.
- 8.5** The Consultant will be responsible for preparing the final contents of the Assessment Study, including text, images and overall formatting.
- 8.6** Once a draft of the Assessment Study has been completed, the City expects the Consultant to present the document to staff for review. General revisions (e.g. formatting, word selection) may be required for clarity.



## **CORPORATION OF THE CITY OF NEW WESTMINSTER**

### **9.0 MATERIALS AVAILABLE TO SUCCESSFUL PROPONENT**

- 9.1** The City is able to provide the following background materials and information to the Consultant:
- a) List of properties in the Special Limited Category;
  - b) Queen's Park Statement of Significance;
  - c) Summary of Historic Values for the Queen's Park Neighbourhood, prepared by the Working Group;
  - d) Photographic inventory of Queen's Park houses; and,
  - e) The City's Heritage Resource Inventory (1990) listings for the Queen's Park neighbourhood.

### **10.0 SCHEDULE**

- 10.1** The Consultant must initiate work within seven (7) days of issuance of Notice to Proceed.
- 10.2** The work must be completed and the final Heritage Value Assessment Study submitted to the City by April 24, 2018. The proposal should include a confirmation that your firm can complete this work and meet the major milestones within the allotted timeframe.
- 10.3** The Consultant must provide a schedule of activity that includes:
- a) An initial meeting with staff to review existing materials and requirements, and confirm a work plan;
  - b) Sufficient time for research and field analysis, as needed;
  - c) Preparation of the Heritage Value Assessment Study;
  - d) A follow-up meeting with staff to present the draft Assessment Study for review and revision;
  - e) Provision for up to two rounds of staff review and revision, including (c). A round of revision is not considered complete until all staff comments from that round are addressed in some way, to the City's satisfaction;
  - f) Availability for follow up questions by staff once the final Assessment Study is submitted.

### **11.0 DELIVERABLES**

- 11.1** The consultant will provide:
- a) A final version of the Heritage Value Assessment Study in Word format;
  - b) An individual JPEG files for each image included in the Assessment Study;
  - c) Two (2) bound, colour copies of the fully formatted Assessment Study.

### **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.
- 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;

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- d) a confirmation that your firm can complete this work and meet the major milestones within the allotted timeframe;
- e) 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;
- f) An estimate of project related disbursements and charge-out schedule for personnel and disbursements in general (refer to Section 13.3 and 13.4). The Proponent may not add overhead costs to disbursements;
- g) 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;
- h) The Project manager assigned to the project;
- i) A list of any sub-Consultants with a brief resume of experience;
- j) An indication of similar projects undertaken by the Consultant; and,
- k) 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.

**13.2** The Proposal is to include a schedule of effort and pricing based on hourly rates and separated into the following components:

- a) Materials review and field review (as needed);
- b) Research and analysis;
- c) Preparation of Property Heritage Value Assessments;
- d) Preparation, review, and revisions of the Heritage Value Assessment Study;
- e) Meetings with City staff; and,
- f) Disbursements.

**13.3** 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 including professional liability insurance.

**13.4** 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.

### 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.

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- 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** Proposals will be evaluated based on the following criteria (enter your criteria):
- a) Project manager and team;
  - b) Understanding of the project;
  - c) Experience of the team in preparing heritage value assessments;
  - d) Experience and qualifications of the team members in relation to the tasks they are assigned;
  - e) Quality of examples of previous related work;
  - f) Familiarity with the New Westminister context;
  - g) Proposed approach and schedule; and,
  - h) Cost.
- 14.9** 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. The City of New Westminister 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**

**NWRFP-18-03**

**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  
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**APPENDIX B**

**Consulting 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 **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, 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 (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 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 (20<sup>th</sup>) 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**

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:**

\_\_\_\_\_  
[name of City authorized representative and office]

Accepted and Agreed on

\_\_\_\_\_, 2018

By

[name of consultant]

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

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