

CITY OF WHITE ROCK
REQUEST FOR PROPOSALS

RFP Project Title: Litter Pick-Up and Garbage Collection
Along Marine Drive

RFP Reference No.: WR19-056

Closing Date: Friday, January 24, 2020
2:00 PM local time

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REQUEST FOR PROPOSALS

1 INTRODUCTION

1.1 Purpose

The City of White Rock ("**White Rock**") invites competitive proposals (each, a "**Proposal**") for the:

RFP Project Title: Litter Pick-Up and Garbage Collection along Marine Drive

RFP Reference No.: WR19-056

This RFP is for a contract that generally will include:

- (a) This contract will be in effect as of the dates of April 1st, 2020 to March 31st 2022, with an option, at City's discretion of one extra year.
- (b) Litter pick-up, is a 'once through' every morning as a minimum. The successful proponent's staff will be expected to pick up litter they encounter through their daily tasks.
- (c) The City has garbage receptacles placed on both sides of Marine Drive, within the parking lots, at the washrooms, bus stops and entrances to the Promenade, and a number of receptacles along the Promenade walkway. This contract includes the daily collection, hauling and disposal of garbage, organics and recyclables. Currently there are 168 receptacles of various sizes.
 - A second collection along the Promenade and other areas will be required on Special Event days, long weekends and high use days.
 - Special event days include but are not limited to;
 - Long weekends between Victoria Day and Labour day
 - Sea Festival
 - Canada Day
 - Concert series
 - Tour de White Rock
- (d) Garbage receptacles need to be inspected/emptied every morning 365 days a year.
- (e) City of White Rock will provide free parking for all service vehicles in the performance of this contract.
- (f) Submission should also include information on:
 - (i) How many workers will be available
 - (ii) What is their experience
 - (iii) Contact numbers for when problems arise
 - (iv) Is there back up employees if workers are sick and cannot make it to work
 - (v) How will you address special event days with multiple pick ups per day
 - (vi) Availability of emergency call out services and the cost

This RFP applies to and governs the preparation of Proposals in response to this RFP.

1.2 Eligibility to Participate

Any interested party may submit a Proposal in response to this RFP.

WR19-056 RFP Litter Pick-Up and Garbage Collection along Marine Drive

1.3 Definitions

In this RFP the following terms will have the meaning set out below:

“BC Bid Website” means the website administered by the Province of British Columbia for BC public sector bid opportunities www.bcbid.gov.bc.ca/

“Closing Time” has the meaning set out in Section 3.2 of the RFP.

“Draft Contract” means the draft contract included as Appendix A to this RFP.

“Evaluation Committee” has the meaning set out in Section 5.1 of the RFP.

“Final Contract” means a formal written contract between White Rock and the Preferred Proponent to undertake the Services, based on the Draft Contract, amended and finalized as negotiated between White Rock and the Preferred Proponent.

“Preferred Proponent” means the Proponent selected by the Evaluation Committee to enter into negotiations for a Final Contract.

“Proponent” means an entity that submits a Proposal.

“Proposal” has the meaning set out in Section 1.1 of the RFP.

“RFP” means this Request for Proposals.

“RFP Documents” means:

- (a) this RFP;
- (b) Schedule A – Receipt Confirmation Form;
- (c) Schedule B — Form of Proposal;
- (d) Schedule C — Proponent's Experience, Reputation and Resources;
- (e) Schedule D — Proponent's Technical Proposal;
- (f) Schedule E — Proponent's Financial Proposal;
- (g) Appendix A — the Draft Contract, which is comprised of:
 - (i) Agreement for Services;
- (h) Addenda issued pursuant to Section 3.9 of the RFP, if any; and
- (i) Reference Information, including Reference Information made available pursuant to Section 2 of the RFP, if any.

“Reference Information” has the meaning set out in Section 2 of the RFP.

“**Variation**” has the meaning set out in Section 4.3 of the RFP.

“**White Rock**” has the meaning set out in Section 1.1 of the RFP.

“**White Rock’s Representative**” has the meaning set out in Section 3.8 of the RFP.

“**City of White Rock Website**” means the website at www.whiterockcity.ca/Bids

1.4 Interpretation

In this RFP:

- (a) words importing the singular include the plural, and vice versa;
- (b) the word “including” is deemed to be followed by “without limitation”;
- (c) capitalized terms used but not defined in this RFP, but are defined in the Draft Contract, have the meanings assigned to such terms in the Draft Contract, unless the context requires otherwise; and
- (d) notwithstanding any other provision in the other documents referred to in this RFP, no term or condition will be implied into this RFP based on any practice or custom, including any practice or custom in the solid collection, transportation and disposal industries.

2 REFERENCE INFORMATION

The information set out in this Section 2, any information provided by White Rock in response to any inquiries submitted pursuant to Section 3.8 of the RFP and any additional information made available to Proponents prior to the Closing Time by White Rock or any representative of White Rock, including information described but not expressly included in the Draft Contract (collectively, the “**Reference Information**”), is provided only for the reference and assistance of Proponents. A Proponent must make its own judgment about the Reference Information’s reliability, accuracy, completeness and relevance to the Draft Contract, and nothing will be interpreted as meaning that White Rock or any representative of White Rock gives any guarantee or representation that the Reference Information is reliable, accurate, complete or relevant.

2.1 General:

- (a) The City of White Rock has approximately 20,000 residents;
- (b) White Rock has an approximate geographical area that covers 5.2 km square kilometers;
- (c) Many tourists and residents of diverse cultures;
- (d) Canada’s longest pier;
- (e) Railway tracks that are parallel to the promenade.

3 INSTRUCTIONS TO PROPONENTS

3.1 Anticipated RFP Schedule

White Rock anticipates that this RFP will be administered in accordance with the following schedule:

Issuance of the RFP: December 2, 2020
Mandatory site meeting: Tuesday, January 7, 2020
10:00 AM
Memorial Park Plaza, which is located on the promenade,
East of White Rock Museum at 14970 Marine Drive.

**Questions and
response deadline:** Friday, January 17, 2020 at 3:30PM

Closing Date: Friday, January 24, 2020

3.2 Closing Time and Address for Proposal Delivery

Proposals must be received at:

Address: The Corporation of the City of White Rock
Engineering and Municipal Operations Department
Attention: Steve Whitton
Manager, Parks
877 Keil Street
White Rock, B.C. V4B 4V6

on or before the following date and time (the “**Closing Time**”):

Time: 2:00 p.m., local time
Date: Friday, January 24, 2020

Please seal your envelope or package and mark on the outside the Proposal number and your company name. Submissions by fax or email will not be accepted.

3.3 Number of Copies

A Proponent should submit one hardcopy and one electronic copy of their Proposals. The electronic copy may be submitted on a USB flash drive or other similar electronic storage device. In the event of a discrepancy between a hardcopy and an electronic copy of a Proposal, the hardcopy version will have priority.

3.4 Late Proposals

Proposals received after the Closing Time will not be accepted.

3.5 Amendments to Proposals

Proposals may be revised by written amendment, delivered to the location set out in Section 3.2 of the RFP, at any time before the Closing Time but not after.

3.6 Information on White Rock Website

White Rock will post information relating to this RFP on the City of White Rock Website and the BC Bid Website, and any interested party will be responsible to monitor the websites for such information, including addendum to this RFP, if any. The web sites are located at:

BC Bid Website: www.bcbid.gov.bc.ca

City of White Rock Website – Tenders & RFPs (Bid Postings): www.whiterockcity.ca/Bids

3.7 Intent to Submit Form

Interested parties should return a completed Schedule A – Receipt Confirmation Form to the address set out in that Schedule A – Receipt Confirmation Form.

3.8 Inquiries

All inquiries related to this RFP should be directed in writing to the person below ("**White Rock's Representative**"). Information obtained from any person or source other than White Rock's Representative may not be relied upon.

Name: Steve Whitton, Manager, Parks

Email: operations@whiterockcity.ca

The City will attempt to respond to all reasonable inquiries but reserves the right not to respond to inquiries. A Proponent finding discrepancies or omissions in the RFP, or having doubts as to the meaning or intent of any provision, should immediately notify White Rock's Representative.

3.9 Addenda

If White Rock determines that an amendment is required to this RFP, White Rock's Representative will issue a written addendum by posting it on:

City of White Rock Website: www.whiterockcity.ca/Bids

BC Bid Website: www.bcbid.gov.bc.ca

that will form part of this RFP. It is the responsibility of each Proponent to check the Websites for addenda. The only way this RFP may be added to or amended in any way is by a formal written addendum issued by White Rock's Representative. No other communication, whether written or oral, from any person will affect or modify the terms of this RFP or may be relied upon by any Proponent. By delivery of a Proposal, a Proponent is deemed to have received, accepted and understood the entire RFP, including any and all addenda.

3.10 Examination of RFP Documents and Locations Where Services Will Be Performed

By submitting a Proposal, a Proponent will be deemed to have carefully examined the RFP Documents and any locations where the Services will be performed with respect to any and all matters which may

influence its Proposal, prior to submitting its Proposal, whether or not the Proponent has in fact examined the RFP Documents or the locations where the Services will be performed.

3.11 Information Meetings

The City of White Rock will hold a mandatory information meeting, on the date and time noted in section 3.1, to discuss this RFP including the Draft Agreement for Services. Attendance at this meeting is mandatory.

3.12 Opening of Proposals

White Rock will open Proposals in private.

3.12 Signature

Proposals should be signed by a person authorized to sign on behalf of the Proponent and bind the Proponent to statements made in the Proposal. If the Proponent is a partnership or joint venture then the name of the partnership or joint venture and the name of each partner or joint venturer should be included, and each partner or joint venturer should sign.

4 PROPOSAL FORM AND CONTENT

4.1 Package

Proposals should be in a sealed package, marked on the outside with the Proponent's name, title of the Project and reference number.

4.2 Form of Proposal

A Proposal should include:

- (a) a completed Schedule B — Form of Proposal;
- (b) a completed Schedule C — Proponent's Experience, Reputation and Resources;
- (c) a completed Schedule D — Proponent's Technical Proposal; and
- (d) a completed Schedule E — Proponent's Financial Proposal, including the information requested in Section Prices should not be unbalanced and Proponents are advised that White Rock may, pursuant to Section 5.3 of the RFP, request that a Proponent provide detailed cost breakdowns of its prices.

A Proponent should submit a Proposal that answers all the questions and provides all the information requested in Schedule B — Form of Proposal through Schedule E — Proponent's Financial Proposal. (If a Proponent cannot respond to a particular item, the Proponent should briefly explain why.)

4.3 Variations

A Proponent may provide a Proposal based on the Services, terms and conditions as described in the Draft Contract or may at its election, in addition to, or in substitution for, any element of the Services, or

any of the terms and conditions of the Draft Contract, propose one or more variations to the Services or any of the terms and conditions of the Draft Contract (each, a “**Variation**”).

A Proponent should, for each proposed Variation, include in its Proposal all the information requested in Section 3 of Schedule D — Proponent's Technical Proposal. (If a Proponent cannot respond to particular item, the Proponent should briefly explain why.)

By submitting a Proposal a Proponent will be deemed to fully accept and agree to fully comply with the terms of the Draft Contract, including the specifications for the Services as described in the Draft Contract, except as may be expressly described otherwise in its Proposal. Except where the Proponent expressly states otherwise in its Proposal, each proposed Variation will be considered as an option which White Rock may, at its election, agree to or reject.

4.4 Performance Security

A Proponent should include in its Proposal written confirmation from its financial institution that upon award of the Final Contract, the financial institution is prepared to issue, in respect of the Proponent, performance security in the amount and in the form as set out in the Draft Contract.

5 EVALUATION AND SELECTION

5.1 Evaluation Committee

The evaluation of Proposals will be undertaken on behalf of White Rock by an evaluation committee appointed by White Rock (the “**Evaluation Committee**”), which may consist of one or more persons. The Evaluation Committee may consult with others including White Rock staff members, third party consultants and references, as the Evaluation Committee may in its discretion decide is appropriate.

5.2 Evaluation Criteria

The Evaluation Committee will compare and evaluate all Proposals to identify the Proposal which the Evaluation Committee judges, in its sole and absolute discretion, to be the most advantageous to White Rock by applying the below criteria. In evaluating a Proponent's Proposal the Evaluation Committee may at its election select:

(a) the Variation(s) as may be included under Section 4.3 of the RFP,

that the Evaluation Committee judges to be acceptable and advantageous to White Rock, for the purpose of comparison to other Proponent's Proposals.

Weighted Criteria

Criteria	Weight
Company and staff experience with relevant projects	40%
Qualifications of key staff and team members assigned to the project (key staff cannot be substituted without City approval)	15%
Price	20%
References	25%

It is anticipated that the Proponent that is evaluated to have the greatest value overall will be selected as the Preferred Proponent, but White Rock reserves the right for the Evaluation Committee to decline to recommend any Proponent which the Evaluation Committee, acting reasonably and fairly, determines would, if selected, result in greater overall cost or material risk to White Rock as compared to another Proponent, considering any relevant factors, including a Proponent's financial resources, safety record, claims and litigation history, work history and environmental record.

5.3 Additional Information

To assist in evaluation of the Proposals, the Evaluation Committee may, in its sole and absolute discretion, but is not required to:

- (a) seek clarification of a Proposal, or any part of a Proposal from the Proponent and consider such supplementary information in the evaluation of the Proposal;
- (b) conduct reference checks relevant to the Services with any or all of the references cited in a Proposal and with any other persons (including persons other than those listed in a Proponent's Proposal) to verify information regarding a Proponent, inclusive of its directors/officers and key personnel, and to conduct any background investigations that the Evaluation Committee considers necessary, and rely on and consider any relevant information in the evaluation of Proposals;
- (c) request interviews/presentations with any, some, or all, of the Proponents to obtain clarification of an aspect of a Proposal and consider such supplementary information received from any interviews/presentations in the evaluation of the Proposal;
- (d) waive any defect, ambiguity, alteration, qualification, omission, inaccuracy, misstatement or failure to comply with the requirements of this RFP, except with respect to the requirement under Section 3.2 of the RFP;
- (e) conduct credit, criminal record, litigation, bankruptcy, taxpayer information and other checks.

A Proponent may not submit any clarifications, supplementary information or supplementary documentation in respect of the Proposal after the Closing Time without the prior written invitation of the Evaluation Committee.

The Evaluation Committee is not bound by industry custom or practice in taking any of the steps listed above, in exercising any of its discretions, in formulating its opinions and considerations, exercising its discretions in making any decisions and determinations, or in discharging its functions under or in connection with this RFP, or in connection with any Proponent, Proposal, or any part of any Proposal.

5.4 Negotiation of Final Contract and Award

White Rock may, at its discretion, select one or more than one Preferred Proponents and enter into one or more than one Final Contract. If White Rock selects a Preferred Proponent or Preferred Proponents, then White Rock may:

- (a) enter into discussions with the Preferred Proponent(s) to clarify any outstanding issues and attempt to finalize the terms of the Final Contract(s), including financial terms. Such discussion may include:
 - (i) incorporation of such terms in the Final Contract(s), including with respect to the description of the scope of and standards for the services required to be provided by the Contractor(s) under the Final Contract(s), and
 - (ii) incorporation of the Preferred Proponent's suggested amendments to the RFP as may be included in the Proponent's Proposal;

The Preferred Proponent(s) will use good faith commercial efforts in its discussions, and if such discussions are successful, White Rock and the Preferred Proponent(s) will enter into the Final Contract(s); or

- (b) if at any time White Rock reasonably forms the opinion that a mutually acceptable agreement is not likely to be reached within a reasonable time, give the Preferred Proponent(s) written notice to terminate discussions, in which event White Rock may then either open discussions with another Proponent without incurring any obligations to any other Proponent, or terminate this RFP in whole or in part and retain or obtain the Services in some other manner.
- (c) The award of this project is contingent to the successful proponent providing:
 - Valid insurance. The City of White Rock must be named as additional insured on policy for a minimum of \$5,000,000.00 liability,
 - Proof of Registration and in Good Standing with WorkSafe BC,
 - Completion of the Prime Contractor Designation Form,
 - Valid City of White Rock business license,
 - Signed copy of the Agreement for Services.

5.5 Approval of Council Required for Award

Notwithstanding any other provision of this RFP, White Rock may require the approval of its Council in order to enter into any Final Contract.

6 GENERAL CONDITIONS

6.1 No Obligation

This RFP is not a tender and does not commit White Rock in any way to select a Preferred Proponent, or to proceed to negotiations for a Final Contract, or to award any Final Contract.

Notwithstanding any other provision in the RFP Documents, any practice or custom in the industry, or the procedures and guidelines recommended for use on publicly funded projects, White Rock, in its sole discretion, will have the unfettered right to:

- (a) accept any Proposal;
- (b) reject any Proposal;
- (c) reject all Proposals and terminate this RFP;
- (d) accept a Proposal which is not the lowest priced Proposal;
- (e) reject a Proposal even if it is the only Proposal received by White Rock;
- (f) accept all or any part of a Proposal; and
- (g) award all or a portion of the Services to any Proponent or to any other person (and for certainty White Rock reserves the right to self-perform any portion of the Services).

6.2 Proponent's Expenses

Each Proponent is solely responsible for their own expenses in preparing, and submitting Proposals, and for any meetings, negotiations or discussions with White Rock or its representatives and consultants, relating to or arising from this RFP.

6.3 No Claims

White Rock and its representatives, agents, consultants and advisors will not be liable to any Proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Final Contract, or other activity related to or arising out of this RFP, including in the event White Rock accepts a non-compliant Proposal or otherwise breaches the terms of this RFP.

6.4 Conflict of Interest

A Proponent should disclose any potential conflicts of interest and existing business relationships they may have with White Rock. White Rock may reject a Proposal from any Proponent that White Rock judges would be in a conflict of interest if the Proponent is awarded a Final Contract.

6.5 Solicitation of Council Members and City Staff

Neither a Proponent nor any agent of the Proponent will contact any member of White Rock Council or City staff or Consultants engaged with White Rock with respect to this RFP, other than White Rock's Representative named in Section 3.8 of the RFP, at any time prior to the award of a Final Contract or the termination of this RFP, and White Rock may, at its discretion, reject the Proposal of any Proponent that makes any such contact.

6.6 Confidentiality

All submissions become the property of White Rock and will not be returned to the Proponent. All submissions will be held in confidence by White Rock unless otherwise required by law. Proponents should be aware White Rock is a "public body" defined by and subject to the Freedom of Information and Protection of Privacy Act of British Columbia and confidentiality cannot be guaranteed.

**SCHEDULE A
RECEIPT CONFIRMATION FORM**

CITY OF WHITE ROCK

RFP Project Title: Litter Pick-Up, and Garbage Collection along Marine Drive

RFP Reference No.: WR19-056

Please complete this form and email to:

The Corporation of the City of White Rock
Engineering and Municipal Operations Department
Attention: Steve Whitton, Manager, Parks
877 Keil Street
White Rock, BC V4B 4V6
operations@whiterockcity.ca

Company: _____

Address: _____

City: _____ Postal Code: _____

Contact Person: _____

Telephone No.: _____ Fax No.: _____

Email address of Contact Person: _____

We have received a copy of the above noted RFP, and

- We will be submitting a Proposal.
- We will not be submitting a Proposal.

**SCHEDULE B
FORM OF PROPOSAL**

RFP Project Title: Litter Pick-Up and Garbage Collection along Marine Drive

RFP Reference No.: WR19-056

Legal Name of Proponent: _____

Contact Person and Title: _____

Business Address: _____

Telephone: _____ Fax: _____

E-Mail Address: _____ Web site: _____

1. I/We, the undersigned duly authorized representative(s) of the Proponent, having carefully reviewed the RFP Documents and any locations where the Services will be performed with respect to any and all matters which may influence this Proposal, submit this Proposal in response to the RFP.
2. I/We confirm that I/we agree to all terms of the RFP, including without limitation Section 6.3 of the RFP.
3. My/Our Proposal includes the following attachments: [Proponent should list all attachments to the Proposal, if any]

4. I/We confirm that this Proposal is accurate and true to best of my/our knowledge.

This Proposal is submitted this _____ day of _____, 2020

I/We have the authority to bind the Proponent.

Name of Proponent: _____

Signature of Authorized Signatory _____

Print Name: _____

Acknowledgment is hereby made of receipt and inclusion of the following addenda to the proposal documents.

Addendum No.	Date	Description
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**SCHEDULE C
PROPONENT'S EXPERIENCE, REPUTATION AND RESOURCES**

A Proponent should provide responses to the following items and these responses will be taken into consideration during the evaluation of proposals. (If a particular item is inapplicable or cannot be answered, the Proponent should clearly state why.)

1. Provide a brief description of the Proponent's current business, and how long this company has been providing the type of Services defined herein in the Metro Vancouver region.

2. Identify the key personnel who will be responsible for the Services, together with a description of the responsibilities such personnel will have in the performance of the Services and a description of the relevant experience of such personnel, using a format similar to the following:

Name: _____

Responsibilities: _____

Experience: _____

3. Identify subcontractors, if any, the Proponent intends to use for the performance of the Services, describe the portion of the Services proposed to be subcontracted and a description of the relevant experience of the subcontractor, using a format similar to the following:

Subcontractor Name: _____

Subcontracted Services: _____

Experience: _____

4. Describe the Proponent's resources available for the performance of the Services including any equipment including collection trucks to be used to perform the Services, its make/model, age, fuel type, maintenance schedule, GHG emissions (if known) and any other relevant information.

5. Provide a summary of similar relevant contracts entered into by the Proponent in which the Proponent performed services comparable to the Services, including the jurisdiction the contract was performed, the contract value, the date of performance.

6. Provide evidence of customer satisfaction for the projects identified in item 5, stating the owner's name, the owner's address and the owner's contact information for the purposes of obtaining a reference. White Rock reserves the right to contact other and any references that White Rock may become aware of and to use those references in evaluation.

7. Describe the following with respect to the Proponent's operational experience:
 - (a) Successful Proponent(s) will be expected to maintain a high level of customer service and will need to provide a method of dealing with customer complaints. Proponent(s) will provide examples of effective handling of complaints from the general public and actions taken to resolve problems;

- (b) The Proponent's health and safety record, including the number, type of injury and duration of any absences of employees covered by a Worker's Compensation Board claim (list any Workers' Compensation Board investigations and the results thereof). Provide a Workers' Compensation rate and define whether you have achieved COR recognition and certification;

SCHEDULE D PROPONENT'S TECHNICAL PROPOSAL

A Proponent should provide responses to the following items, and these responses will be taken into consideration during the evaluation of proposals. (If a particular item is inapplicable or cannot be answered, the Proponent should clearly state why.)

General Technical Performance:

1. Provide a brief narrative that illustrates the Proponent's understanding of White Rock's requirements for the performance of the Services.
2. Provide a description of the general approach and methodology that the Proponent would take in performing and managing the Services.
3. As provided by Section 4.3 of the RFP, provide the Variation(s), if any, that the Proponent wishes to propose, together with the following information for each such Variation.
 - (a) Draft Contract section reference relating to Variation;
 - (b) Proposed amendment to the Draft Contract;
 - (c) Rationale for Variation, including price and non-monetary benefits; and
 - (d) Change in proposed prices (increase or decrease), or as applicable the method to calculate the change in prices.

Collections:

4. Describe the proposed procedure for collecting each garbage, recyclables and organics receptacle.
5. Describe how the Proponent will prevent contamination and other unauthorized materials from being collected and how it will deal with contamination that enters the collection.
6. Describe how the Proponent would help to increase recyclables and organics diversion from the collection on the beach and along Marine Drive.
7. Describe how the Proponent will provide a second collection on Special Event Days (manoeuvring around crowds).

Training:

8. Describe the Proponent's staff training program, including the minimum training and experience requirements for collection personnel.
9. Describe the safety and training plans at the Proponent's maintenance/operation facility and for the Proponent's collection personnel. What types of training is provided to avoid disputes between collection personnel and the public?

10. What disciplinary measures will the Proponent you take if their personnel are rude or abusive towards the public?

Quality Control:

11. Provide a detailed description of the management reports the Proponent would use to track and improve quality of service. What management tool will be used to address performance?
12. Describe the steps that the Proponent will take to ensure that the missed performance rates are achieved. (Appendix A – Draft Agreement for Services)

Equipment:

13. List the equipment that would be used by the Proponent to perform the Services?

**SCHEDULE E
PROPONENT'S FINANCIAL PROPOSAL**

Garbage collection/month	\$
<u>EXTRAS:</u>	
Additional Garbage Collection/Special events	\$
Emergency Call Out Services	\$

**APPENDIX A
DRAFT AGREEMENT FOR SERVICES**

See attached

**Appendix A Draft Agreement for Services
CITY OF WHITE ROCK**

PROFESSIONAL SERVICES AGREEMENT

Project Name: _____

City File No: _____

THE AGREEMENT dated for reference this ____ day of _____, _____.

BETWEEN:

[Contractor's Name]
[Contractor's Address 1]
[Contractor's Address 2]

(the “**Contractor**”)

AND:

THE CITY OF WHITE ROCK
15322 Buena Vista Avenue
White Rock, BC V4B 1Y6

(the “**City**”)

GIVEN THAT:

- A. The City wishes to engage the services of the Contractor as an independent contractor to perform consulting services as more particularly described below, and
- B. The Contractor agrees to provide such services on the terms and subject to the conditions set out in this agreement,

IN CONSIDERATION OF the sum of one (\$1.00) dollar paid by the City to **[Contractor's name]**, and the mutual agreements and covenants under this agreement, and as a condition of the City retaining the Contractor, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this agreement agree as follows:

1.0 Interpretation

1.1 In this Agreement, the following words shall be defined as follows:

- (a) “**Agreement**” means this agreement, including the recitals and schedules hereto, each as supplemented or amended from time to time;
 - (b) “**City Liaison**” has the meaning detailed in section 5.6 of this Agreement;
 - (c) “**Confidential Information**” has the meaning detailed in section 14.2 of this Agreement;
 - (d) “**Contract Price**” means the amounts to be paid to the Contractor for the Services in accordance with part 6 and as detailed in Schedule B;
 - (e) “**Contractor Liaison**” has the meaning detailed in section 5.7 of this Agreement;
 - (f) “**Designated Personnel**” means the persons deployed by the Contractor to provide the Services as detailed in Schedule E’
 - (g) “**Designate(s)**” has the meaning detailed in section 5.6 of this Agreement;
 - (h) “**Force Majeure**” has the meaning detailed in section 18.1 of this Agreement;
 - (i) “**Insurance**” means the Contractor’s insurance coverage under part 13 of this Agreement and as detailed in Schedule D of this Agreement;
 - (j) “**Services**” means the services detailed in Schedule A of this Agreement;
 - (k) “**Subcontractor**” means any subcontractor retained by the Contractor to provide the Services as detailed in Schedule C or otherwise approved in writing by the City;
 - (l) “**Term**” has the meaning detailed in section 3.2 of this Agreement.
- 1.2 Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or permits.
- 1.3 Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties so require.
- 1.4 Unless otherwise specified in this Agreement, all references to currency are in Canadian dollars.
- 1.5 The headings included in this Agreement are for convenience only and do not form part of this Agreement and will not be used to interpret, define or limit the scope or intent of this Agreement.

- 1.6 Unless otherwise indicated in this Agreement, any reference to an enactment shall mean an enactment of British Columbia and shall include any amendments or re-enactments.

2.0 Schedules Incorporated

- 2.1 The following are Schedules to, and form an integral part of, this Agreement:

Schedule A – Services to be provided by the Contractor

Schedule B – Contract Price and Payment for Services

Schedule C – Subcontractors

Schedule D – Insurance

Schedule E – Designated Personnel

Schedule F – Security

Schedule G - Additional or Modified Terms

3.0 Effective Date and Term

- 3.1 This Agreement takes effect immediately upon execution by all of the parties.
- 3.2 The term of this Agreement is for *[insert length of term]* commencing on *[insert commencement date]* and ending on the completion of the Services which shall be no later than *[insert end date]* unless terminated earlier in accordance with part 11 of this Agreement or extended by the written agreement of the parties.
- 3.3 The City does not warrant or guarantee any future business under this or any other agreement and there is no automatic renewal of Term for this Agreement.

4.0 Authority and Qualifications of Contractor and Contractor Warranties

- 4.1 The Contractor represents and warrants to the City that it has the authority to enter into this Agreement and carry out its Services and all necessary resolutions and procedural formalities have been completed and the persons executing this Agreement on its behalf are duly authorized to do so.
- 4.2 The Contractor warrants and represents to the City that the Contractor is qualified and has sufficient expertise and experience to perform expeditiously and efficiently all of the Services in a proper and professional manner.
- 4.3 The Contractor warrants that the Services will be free of all defects, deficiencies, and problems arising from workmanship for a period of twelve (12) months from the date of approved final completion of the Services by the City and in accordance with the following:

- (a) if, in the sole opinion of the City defects, deficiencies or problems appear during the warranty period, the Contractor shall immediately remedy, replace, re-perform or correct the Services at no cost to the City within a time fixed by the City;
- (b) if the Contractor fails to respond or remedy, replace, re-perform or correct the Services within the time fixed by the City, the City may remedy, replace, re-perform or correct the Services, and, any damage arising from it, by whatever means it chooses and the cost of same shall be paid by the Contractor;
- (c) the Contractor further warrants that any Services which have been repaired, replaced, re-performed, remedied or corrected shall be free of defects, deficiencies or problems arising from faulty workmanship for a further period of twelve (12) months from the date of completion of the required repair, re-performance, remedy or correction.

5.0 Services

- 5.1 The City hereby retains the Contractor as an independent contractor to provide the Services described in Schedule A.
- 5.2 The Contractor shall provide the Services strictly in accordance with the terms and conditions set out in this Agreement and in accordance with the following:
 - (a) the Contractor shall provide the Services during the Term regardless of the date of execution or delivery of this Agreement unless an extension of the time period is agreed to in writing by both parties;
 - (b) the Contractor shall undertake and perform all Services with such degree of care, skill and diligence as would reasonably be expected from a person or entity qualified in British Columbia to perform services similar in scope, nature and complexity to the Services;
 - (c) the Contractor further agrees to assign a competent, adequate and skilled work force to perform the Services; and
 - (d) the Contractor shall determine the method by which the Services are performed, subject to such reasonable instructions as the City may provide from time to time.
- 5.3 It is understood that the Contractor must perform the Services based, in part, on information furnished by the City and the Contractor shall be entitled to rely on such information; however, the Contractor is given notice that the City will be relying on the accuracy, competence and completeness of the Services provided by the Contractor in utilizing the results of the Services.
- 5.4 The Contractor shall advise the City in writing of the Designated Personnel to perform the Services. Should the Contractor designate any other personnel to perform the Services, it shall do so only with the prior written consent of the City and upon the City's consent, those personnel shall become Designated Personnel under this Agreement. In the event that any of the Contractor's Designated Personnel do not perform the Services to the full satisfaction of the City, the City reserves the right to request the Contractor to

make a change in personnel at the Contractor's expense. The Contractor agrees to remove and replace any person whom the City deems to be unfit in any way.

- 5.5 The City reserves the right to amend or vary the Services upon notice in writing to the Contractor, or, as may be agreed between the City and the Contractor from time to time, provided that the amendment or variation of the Services shall be subject to the parties' agreement on an amended Contract Price, if applicable.
- 5.6 The Contractor's liaison with the City respecting the Services shall be the City's *[Insert name of position]* or such other person as the City may designate (the "**City Liaison**"). In addition, the City may designate from time-to-time, in writing, one or more of its employees having on the City's behalf, authority to deal with the Contractor in connection with the Services and to make decisions binding on the City falling within the scope of this Agreement (the "**Designate(s)**").
- 5.7 The City's liaison with the Contractor respecting the Services shall be the Contractor's *[Insert name of position]* or such other person as the Contractor may designate (the "**Contractor Liaison**").
- 5.8 The Contractor shall provide the City Liaison and/or Designate(s), upon request, with reports regarding the work done, and to be done, in connection with the performance of the Services.

6.0 Compensation and Contract Price

- 6.1 During the Term of this Agreement the City shall pay the Contractor the Contract Price for the Services at the rates and times described in Schedule B, plus all applicable taxes.
- 6.2 The Contractor shall submit written statements of account to the City and accompanying documentation as may be reasonably requested by the City at least 30 days in advance of any payments under this Agreement. The statements shall provide details of the Services performed, the person(s) performing each of the Services, the time spent and the fee for each of the Services. Invoices should be submitted in duplicate to the City Liaison and/or Designate(s) for approval subject to the following:
- (a) if the City approves of the Services which are the subject of the invoice, the City shall pay the Contractor the amount of the approved invoice or part thereof thirty (30) days following the date of the City's approval; and
 - (b) if the City does not approve of the Services or part of them which are the subject of the invoice, the City shall advise the Contractor in writing of the reasons for non-approval and the Contractor shall remedy the problem at no additional cost to the City before the City shall be obliged to pay the invoice or any part of it, as the case may be.
- 6.3 The Contractor shall be reimbursed only for expenses that are detailed in Schedule B and which are accompanied by sufficient and substantiated documentation acceptable to the City.
- 6.4 The City shall not pay the Contractor for any fees or expenses in excess of any limit specified in Schedule B, except where that is agreed to in writing by the parties. The City

will not be liable for and will not pay any unapproved expenses or fees. The Contractor is expressly agreeing to complete all the described Services for the consideration expressed herein.

- 6.5 The Contractor is a GST registrant and its GST registration number is *[insert Contractor's GST #]*. The Contractor will remit all GST and other taxes as required under the *Excise Tax Act* (Canada) and other applicable enactments and shall indemnify and save harmless the City from any claims therefor. The Contractor's invoices will clearly show the amount of tax as a separate tax.
- 6.6 The Contractor shall be responsible for the payment of all income and other taxes attributable to any payments made under this Agreement. The Contractor agrees to indemnify and save harmless the Company from and against any and all manner of actions, claims and demands which may be made against it in respect of any fees, assessments, levies, rates, taxes or other charges made, demanded, assessed or otherwise claimed by any provincial or federal government or other body of competent jurisdiction in respect of any monies paid to the Contractor under this Agreement.
- 6.7 The Contractor shall apply for and, immediately upon receipt, remit to the City any refund or remission of federal or provincial tax or duty available with respect to any Services provided in connection with this Agreement.

7.0 Contractor's Obligations

- 7.1 In carrying out its obligations under this Agreement, the Contractor shall:
- (a) supply and pay for all labour and materials necessary or advisable to provide the Services;
 - (b) be responsible for all applications, permits or other approvals necessary or advisable to provide the Services;
 - (c) maintain time records and books of account, invoices, receipts, and vouchers for all expenses incurred, in form and content satisfactory to the City;
 - (d) upon request, fully inform the City of all work done in connection with providing the Services; and
 - (e) comply with the City's instructions regarding the performance of the Services, but is not required to do so regarding the manner in which those instructions are carried out, except as specified in this Agreement.
- 7.2 The Contractor shall, when necessary, provide and supervise a sufficient number of workers to enable timely and proper performance and completion of the Services, and shall ensure that all such workers are competent, work efficiently and are qualified by education, training and experience to carry out the tasks to which each is assigned and in accordance with the following:
- (a) all workers hired by the Contractor to perform the Services shall be the employees of the Contractor and shall not be the employees of the City;
 - (b) the Contractor shall refrain from doing anything that would result in workers hired by the Contractor being considered the employees of the City;

- (c) the Contractor shall reassign, replace or remove a worker who is does not meet the requirements described above, or who has behaved or is likely to behave in a manner detrimental to the provision of the Services, or has violated or is likely to violate the confidentiality provisions of this Agreement;
- (d) the Contractor shall pay and discharge all wages, fees, salaries, charges, costs and expenses due and accruing due to any of its employees, agents, suppliers and subcontractors and shall make and remit to the proper authorities all deductions therefrom required by law;
- (e) the Contractor shall bear all expenses and responsibilities with respect to its officers, employees, agents and contractors, including all expenses and responsibilities for its Designated Personnel, and any costs associated with replacing any of them; and
- (f) nothing in this Agreement restricts the right of the Contractor to terminate its employee's employment, or renders the Contractor liable for an employee's voluntary termination, or for any labour strike or lockout involving the Contractor's employees.

7.3 In carrying out its obligations hereunder, the Contractor shall familiarize itself and agrees to continuously conform to and to ensure its officers, employees and agents continuously conform to, all applicable enactments and requirements of all governmental and other regulatory authorities and shall obtain all necessary licences, permits and registrations as may be required by law. If the City requests, the Contractor shall furnish evidence of such compliance to the City forthwith.

8.0 Relationship of parties and Conflicts of Interest

8.1 The Contractor and the City expressly acknowledge that they are independent contractors and no agency, partnership, joint venture or employer-employee relationship is intended or created by this Agreement.

8.2 The Contractor warrants, represents and agrees that:

- (a) it has no financial interest, directly or indirectly, in the business of any third party that would be or be seen to be a conflict of interest in carrying out the Services; and
- (b) neither it nor any person related to or affiliated with the Contractor has any relation to or affiliation with any faculty or staff of the City which may in any way be seen (in the City's sole and unfettered discretion) to create a potential conflict between the loyalties owed by such faculty or staff to the City and loyalties owed directly or indirectly to the Contractor, except as disclosed by the Contractor to the City;
- (c) in the event an interest is acquired or the Contractor should be found to be in a potential conflict of interest during the performance of the Services, the Contractor shall be required to advise and cure the conflict forthwith to the City's satisfaction or shall be disentitled to any compensation under this Agreement.

8.3 The Contractor may provide services to other persons or organizations during the Term of this Agreement, provided such services could not reasonably give rise to a conflict of interest with respect to the Contractor's duties under this Agreement.

9.0 Subcontracting

9.1 The Contractor shall not subcontract any obligation under this Agreement, other than to Subcontractors listed in Schedule C of this Agreement, without prior written consent of the City.

9.2 The City may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to retain another qualified Subcontractor.

9.3 No subcontract, whether consented to or not, shall relieve the Contractor of any obligations under this Agreement.

9.4 The Contractor shall ensure that every Subcontractor fully complies with this Agreement when performing the subcontracted Services.

10.0 Non-Compliance and City's Right to Suspend Services

10.1 If the Contractor fails to observe, perform, or comply with any provision of this Agreement, then the City may, at its sole discretion:

- (a) allow the Contractor to continue to provide the Services with a time limit for compliance, rectification or both; or
- (b) suspend all or part of the Services, including payments in whole or in part, and give the Contractor a time limit for compliance, rectification or both.

10.2 If the City has set a time limit for compliance, rectification or both and the Contractor has fails to meet the time limit, the City may employ whatever means necessary to rectify that non-compliance, including performance of the Contractor's obligations on the Contractor's behalf and/or termination of this Agreement, and the Contractor shall pay an amount equal to all costs reasonably incurred by the City in rectifying the non-compliance.

10.3 The City may at any time in its sole discretion suspend the Services for a specified or unspecified time by written notice to the Contractor and:

- (a) upon receiving notice of suspension, the Contractor shall immediately suspend all operations except those which in the City's opinion are necessary to preserve, care for and protect the Services; and
- (b) the Contractor shall be entitled to be reimbursed for its reasonable, proper and actual expenses incurred in protecting, caring for and preserving the Services.

11.0 Termination

- 11.1 The City may terminate this Agreement at any time, and without cause, by giving **[insert number and written form (e.g. thirty (30))]** days' written notice of termination to the Contractor and paying the Contractor an amount equal to that portion of the Contract Price that are payable for the Services as at the time of termination under this section 11.1.
- 11.2 The City may terminate this Agreement if the Contractor fails to comply with any of the terms, covenants and agreements that the Contractor must observe or perform under this Agreement and that failure continues for **[insert number and written form]** days after receipt by the Contractor of notice in writing from the City specifying the failure.
- 11.3 The Contractor may terminate this Agreement by providing **[insert number and written form]** days' written notice of termination to the City.
- 11.4 Without limiting any of the provisions in this part 11, the City reserves the right at its exclusive option to immediately and without further notice, cancel this Agreement, or part thereof, without further liability of any kind in any of the following circumstances:
- (a) for failure by the Contractor to complete the Agreement in a timely fashion;
 - (b) for failure by the Contractor to meet described milestone events as required by the Agreement;
 - (c) for poor workmanship by the Contractor;
 - (d) for repeated or persistent faulty work or performance by the Contractor;
 - (e) for failure by the Contractor to remedy defects or deficiencies after being given notice to do so;
 - (f) if the Contractor is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of all or part of its property; and such conditions are not cured within thirty (30) days of notice thereof from the City to the Contractor;
 - (g) for any breach of condition of the Agreement by the Contractor;
 - (h) for any Force Majeure event which lasts longer than thirty (30) days; or
 - (i) for its convenience at any time without cause, penalty or damages.
- 11.5 The City expressly reserves all legal rights and remedies available under general laws of British Columbia, Canada in the event of termination including the right of set off.
- 11.6 Upon termination of this Agreement, the Contractor agrees that all files, information, data and documents pertaining to the City's business including any software developed in part or in whole during the performance of the Services, shall remain the property of the City, and shall promptly be delivered by the Contractor to the City's office, and no photo static copy, duplication or reproduction of any kind whatsoever shall be made of such files, information, documents or software without the express written consent of the City.

12.0 Materials and Equipment

- 12.1 Any material or equipment that the City provides to the Contractor, or to a Subcontractor hired by the Contractor, shall remain the exclusive property of the City.
- 12.2 The Contractor shall deliver to the City any material or equipment provided to the Contractor or the Contractor's Subcontractor immediately following expiration or termination of this Agreement, or as requested by the City, and the material or equipment shall be returned in the same condition that it was supplied to the Contractor, except for loss or damage resulting from reasonable wear and tear associated with the performance of the Services.

13.0 Insurance

- 13.1 The Contractor shall, at its own expense, maintain at all times during the Term of this Agreement Insurance, including general liability insurance coverage and such other Insurance as the City reasonably requires on such terms, amounts and with deductibles as described in Schedule D, including, without limitation, the following:
- (a) commercial general liability Insurance with a limit of not less than \$5,000,000 inclusive per occurrence for bodily injury, (including death) and damage to property including loss of use thereof. Such insurance shall include coverage for broad form property damage, contractual liability, completed operations and product liability. The City shall be named as an additional insured on the policy, but only with respect to the operations of the Contractor in the performance of this Agreement;
 - (b) automobile liability insurance for a limit of not less than \$5,000,000 for all owned, leased or rented licensed vehicles used in the performance of the contract;
 - (c) where applicable, property Insurance for the value of contractor's property, shall be maintained and shall include a waiver of subrogation in favour of the City; and
 - (d) professional Liability in an amount not less than \$1,000,000 insuring the Contractor's liability resulting from errors and omission in the performance of professional services under this Agreement.
- 13.2 The Insurance required under section 13.1 shall be subject to the advance approval of the City and shall have deductible amounts and other terms which are acceptable to the City.
- 13.3 Maintenance of such insurance and the performance by the Contractor of their obligation under this clause shall not relieve the Contractor of liability under the indemnity provisions set forth herein.
- 13.4 Maintenance of such insurance and the performance by the Contractor of their obligation under this clause shall not relieve the Contractor of liability under the indemnity provisions in this Agreement.

- 13.5 In addition to the foregoing insurance, the Contractor agrees that it is responsible for carrying and paying for Workers Compensation coverage for itself and all its employees, contractors and others engaged in providing the Services in accordance with the *Workers Compensation Act* and regulations. The Contractor further agrees that:
- (a) it is the principal contractor for the purposes of the *Workers Compensation Act* and regulations and the Contractor may, at its own expense, provide additional insurance for its members to augment Work Safe BC coverage; and
 - (b) it shall comply with all conditions of the *Workers Compensation Act* and regulations, and will be responsible for all fines, levies, penalties and assessments made or imposed under the *Workers Compensation Act* and regulations relating in any way to the Services, and shall indemnify and save harmless the City, its employees and agents, from and against any such fines, levies, penalties and assessments.
- 13.6 At the request of the City, the Contractor shall provide to the City, a Certificate of Insurance evidencing the required Insurance is in force and effect and that all coverages shall provide for thirty (30) days prior written notice to be given to the City in the event of cancellation or material changes. With the prior consent of the City, should any portion of the Services performed be sub-contracted, the Contractor will ensure that each sub-contractor also maintains during the course of this Agreement insurance coverage which is in like form and with limits as those to be carried by the Contractor.

14.0 Confidentiality

- 14.1 The City shall make available to the Contractor all information in its possession that the City considers relevant to the Contractor's performance of the Services.
- 14.2 The Contractor acknowledges that in the performance of its responsibilities hereunder, the Contractor may have access to confidential information and records and the Contractor shall maintain strict confidentiality concerning any information, data, reports, instructions or directions received from or delivered by the City in connection with the providing of any Services under this Agreement (the "**Confidential Information**").
- 14.3 During and after the Term of this Agreement, the Contractor shall not, directly or indirectly, disclose Confidential Information to any person or use any Confidential Information, except:
- (a) as required in the course of performing the Services and then only to staff of the City on a need-to-know basis; or
 - (b) with the prior written consent of the City.
- 14.4 All Confidential Information which the Contractor shall prepare or use or come in contact with shall be and remains the City's sole property and shall not be removed from the City's premises without its prior written consent, except as required in the normal course of performing the Services under this Agreement.
- 14.5 The Contractor agrees to return to the City all the Confidential Information provided by the City and any copies of such material in its possession forthwith upon demand.

- 14.6 The Contractor agrees that it will cause any worker, before commencing his or her duties, to sign a written confidentiality agreement and the Contractor shall be liable to the City for any breach of any such agreement by the worker.
- 14.7 The Contractor agrees that, upon request of the City, or in the event that the Contractor ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, the Contractor will turn over to the City all data, documents, specifications, drawings, reports, software, disks or other computer media, or other material in the possession or control of the Contractor that:
- (a) may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information; or
 - (b) is connected with or derived from the Contractor's Services to the City.
- 14.8 The Contractor agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any failure to maintain the confidentiality of the Confidential Information in breach of this Agreement cannot be reasonably or adequately compensated for only in money damages and would cause irreparable injury to the City. Accordingly, the Contractor agrees that the City is entitled to, in addition to all other rights and remedies available at law or in equity, an injunction restraining the Contractor and any agents of the Contractor, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.
- 14.9 Notwithstanding this part 14, the the Contractor acknowledges that this Agreement is subject to the *Freedom of Information and Protection of Privacy Act*.
- 14.10 The Contractor shall obtain the prior written approval of the City prior to issuing any news release, undertaking any interview or issuing any information about this Agreement or the Services to any journalist, media or the public.

15.0 Intellectual Property

- 15.1 The Contractor agrees that any documentation or deliverables developed by the Contractor for the purposes of this Agreement are the property of the City and any copyrights, ownership rights or any other rights to such documentation or deliverables remain solely with the City.
- 15.2 Without limiting section 15.1, any and all information, reports, documents, data, computer software, or other items of any nature whatsoever, in any form, prepared by the Contractor pursuant to this Agreement whether completed or not, together with all designs or materials capable of intellectual property protection, prepared, developed or created by the Contractor, its employees or agents during the performance of and/or pursuant to this Agreement shall automatically become the property of the City.
- 15.3 The Contractor acknowledges the proprietary interest of the City in all names, trademarks, crests, or logos owned by the City and shall not use any City name, trademark, crest or logo without the written consent of the City.

16.0 Notices

16.1 Any notice permitted or required to be given by a party hereunder shall be given in writing, and may be delivered by hand, sent by facsimile transmission, or forwarded by first-class prepaid registered mail to the addresses and fax numbers set forth below, or to such other addresses as may from time to time be provided by the parties in writing. Any notice delivered by hand or sent by facsimile shall be deemed to be given and received at the time of sending. Any notice that is sent by prepaid or registered mail shall be deemed to have been received by the party to whom it is addressed on the fourth (4th) business day (Saturdays, Sundays and Statutory Holidays excluded) following the date of posting, provided that Canada Post service is not interrupted by strike or lock-out at the time of posting or within four (4) business days thereafter, in which case the notice shall only be effective once it is actually delivered.

16.2 Notices under this Agreement are to be delivered as follows:

To the City:

City of White Rock
15322 Buena Vista Avenue
White Rock, BC V4B 1Y6
Attention: [City contact name]
Fax: [fax number]

To the Contractor:

[Name]
[Street Address]
[Town/City], [Province], [Postal Code]
Attention: [Contractor contact name]
Fax: [fax number]

17.0 Dispute Resolution

17.1 In the case of any dispute arising between the City and the Contractor, as to their respective rights and obligations under the terms and conditions of this Agreement and subsequent documents, either party shall be entitled to give the other written notice, within ten (10) working days of that party's awareness of such a dispute.

17.2 In the event that a mutually agreeable resolution is not reached in a reasonable period of time, the parties agree to the following procedure:

- (a) disputes will be referred to the City Liaison and the Contractor's Liaison who will meet and work to resolve the dispute. If a resolution cannot be reached within ten (10) days, or such time as agreed to by both parties, the dispute will be escalated to the second level detailed in subsection (b);

- (b) the City's Chief Administrative Officer and the Contractor's designated senior executive will work to resolve the dispute. If a resolution still cannot be reached the dispute will be escalated to the third level detailed in subsection (c);
 - (c) the matter in dispute may be referred to the British Columbia International Commercial Arbitration Centre ("BCICAC") for commercial mediation, pursuant to its rules; and
 - (d) in the event the commercial mediation process is unsuccessful, the parties may agree to have the BCICAC will appoint an arbitrator and if so agreed by the parties, the decision of any arbitrator shall be final and binding upon the parties, including any decision of the arbitrator with respect to the costs of arbitration.
- 17.3 Unless the parties agree to binding arbitration under subsection 17.2(d), any efforts by the parties to resolve a dispute shall not preclude either of them from commencing legal proceedings or in accessing any other rights under law.

18.0 Force Majeure

- 18.1 For the purposes of this Agreement, the term "**Force Majeure**" is defined as an Act of God, an act of a public enemy, war, labour disruptions and other extraordinary causes not reasonably within the control of the Contractor.
- 18.2 If the Contractor is rendered unable, wholly or in part, by Force Majeure to provide the Services then the Contractor shall provide to the City notice of the Force Majeure as soon as reasonably possible, and to the extent that the Contractor's performance is impeded by the Force Majeure it shall not be in breach of its obligations under this Agreement.
- 18.3 The parties acknowledge and agree that during an event of Force Majeure, the Contractor's obligations pursuant to this Agreement shall be reduced or suspended as the case may be, but not longer than the continuance of the Force Majeure, except for a reasonable time period after if required by the Contractor to resume its obligations.
- 18.4 In the event Force Majeure occurs, the Contractor shall give prompt notice to the City and shall take all reasonable steps to eliminate the cause.

19.0 No Assignment

- 19.1 The Contractor may not assign any of its rights or interests in this Agreement.

20.0 Remedies Cumulative and No Waiver

- 20.1 No reference to or exercise of any specific right or remedy by the City prejudices or precludes the City from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement. No such remedy is exclusive or dependent upon any other such remedy, but the City may from time to time exercise any one or more of such remedies independently or in combination. Without limiting the generality of the foregoing, the City is entitled to commence and maintain an action against the

Contractor to collect any sum not paid when due, without exercising the option to terminate this Agreement.

- 20.2 Waiver by the City of any breach of any term, covenant or condition of this Agreement by the Contractor is not a waiver of any subsequent default by the Contractor. Failure by the City to take any action in respect of any breach of any term, covenant or condition of this Agreement is not a waiver of such term, covenant or condition.

21.0 Indemnity and Release

- 21.1 The Contractor shall indemnify, release and save harmless the City and its elected and appointed officials, officers, employees, agents, contractors, successors and assigns from any and all liabilities, actions, damages, claims, losses, orders, fines, penalties, costs and expenses, including the full amount of all legal fees and expenses (the “**Claims**”) that may be brought against, or suffered or incurred by, the City or any of its elected and appointed officials, officers, employees, agents, contractors, successors and assigns, in any way directly or indirectly arising from or in connection with the activities, actions or omissions of the Contractor or any of its employees, Subcontractors, agents, licenses, servants, invitees or anyone for whom the Contractor is in law responsible, in relation to the Services or in connection with this Agreement. The indemnities set out in this paragraph do not include Claims arising from the negligence or wilful or malicious misconduct on the part of the City or a person for whom the City is responsible at law.
- 21.2 The provisions of section 21.1 are paramount to any Insurance requirements herein and shall survive the Term of this Agreement.
- 21.3 The Contractor releases the City from and against all liabilities, claims, demands, damages, costs, expenses, suits and actions which the Contractor may at any time have against the City in respect of the Services, this Agreement and related matters. The obligations of the Contractor under this section survive the expiry or earlier termination of this Agreement.

22.0 Powers Preserved

- 22.1 Except as expressly set out in this Agreement, nothing in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its powers, duties or functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, all of which may be fully and effectively exercised as if this Agreement had not been executed and delivered.

23.0 General

- 23.1 Time is of the essence of this Agreement.
- 23.2 Parties may by written agreement amend this Agreement
- 23.3 This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns, notwithstanding any rule of law or equity to the contrary.

- 23.4 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.
- 23.5 If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
- 23.6 This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.
- 23.7 The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written, between the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

THE CITY OF WHITE ROCK, by its)
authorized signatories:)

)
)
_____)

Name:)
Date signed: _____)

)
_____)

Name:)
Date signed: _____)

[Contractor's Name], by its authorized)
signatories:)

)
)
_____)

Name:)
Date signed: _____)

)
_____)

Name:)
Date signed: _____)

SCHEDULE A
SERVICES TO BE PROVIDED BY CONTRACTOR

[Insert project scope, deliverables, milestone dates, expectations and other relevant information]

SCHEDULE B
CONTRACT PRICE AND PAYMENT FOR SERVICES

[Insert relevant payment information. The following is provided as a guide.]

The Contractor shall be paid for its Services under this Agreement as follows (check applicable item(s)):

All inclusive Fee: \$ _____

<input type="checkbox"/> Hourly Fee:	<u>Position/ Name</u>	<u>Hourly Rate</u>	\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____

<input type="checkbox"/> Other Fee(s):	<u>Details</u>	\$ _____
		\$ _____
		\$ _____
		\$ _____

Disbursements: Details

The schedule for payment of the Contractor's Fees shall be as follows (check applicable item(s)):

<input type="checkbox"/> Retainer:	\$ _____
<input type="checkbox"/> Monthly:	Payable on the ____ day of every month
<input type="checkbox"/> Annual:	Payable on the ____ day of every year
<input type="checkbox"/> Other:	Details:

SCHEDULE C
SUBCONTRACTORS

[Insert names of subcontractors, if applicable.]

SCHEDULE D
INSURANCE

[Insert details of Insurance coverage.]

SCHEDULE E
DESIGNATED PERSONNEL

Name

Position

SCHEDULE F
SECURITY FOR PERFORMANCE OF SERVICES

[Insert details of Security – Eg. Letter of Credit or Performance Bond.]

SCHEDULE G
ADDITIONAL OR MODIFIED TERMS

[Insert details of additional or modified terms, including any other agreements or documents that are incorporated by reference.]