



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 4-2022

**PROFESSIONAL CONSULTING SERVICES FOR AN INDEPENDENT FAIRNESS
COMMISSIONER**

TABLE OF CONTENTS

PART A - BID SUBMISSION

- Form A: Bid/Proposal
- Form B: Fees (Prices)

PART B - BIDDING PROCEDURES

B1. Contract Title	1
B2. Submission Deadline	1
B3. Enquiries	1
B4. Confidentiality	1
B5. Addenda	2
B6. Proposal Submission	2
B7. Proposal (Section A)	3
B8. Fees (Section B)	3
B9. Experience of Proponent (Section C)	4
B10. Experience of Key Personnel Assigned to the Project (Section D)	4
B11. Project Understanding and Methodology (Section E)	5
B12. Project Schedule (Section F)	5
B13. Disclosure	6
B14. Conflict of Interest and Good Faith	6
B15. Qualification	7
B16. Opening of Proposals and Release of Information	8
B17. Irrevocable Offer	8
B18. Withdrawal of Offers	8
B19. Interviews	8
B20. Negotiations	8
B21. Evaluation of Proposals	9
B22. Award of Contract	10

PART C - GENERAL CONDITIONS

C0. General Conditions	1
------------------------	---

PART D - SUPPLEMENTAL CONDITIONS

General

D1. General Conditions	1
D2. Background	1
D3. Scope of Services	3
D4. Cooperative Purchase	3
D5. Definitions	4
D6. Contract Administrator	4

Submissions

D7. Authority to Carry on Business	4
D8. Insurance	4

Schedule of Services

D9. Commencement	6
D10. Critical Stages	6
D11. COVID-19 Schedule Delays	6

Measurement and Payment

D12. Invoices	7
D13. Payment	7

PART E - SPECIFICATIONS

General

E1. Applicable Specifications and Drawings	1
E2. Services	1

PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

- B1.1 PROFESSIONAL CONSULTING SERVICES FOR AN INDEPENDENT FAIRNESS COMMISSIONER

B2. SUBMISSION DEADLINE

- B2.1 The Submission Deadline is 12:00 noon Winnipeg time, March 18, 2022.
- B2.2 The Contract Administrator or the Manager of Materials may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B2.1.

B3. ENQUIRIES

- B3.1 All enquiries shall be directed to the Contract Administrator identified in D6.
- B3.2 If the Proponent finds errors, discrepancies or omissions in the Request for Proposal, or is unsure of the meaning or intent of any provision therein, the Proponent shall promptly notify the Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.
- B3.3 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator to all Proponents by issuing an addendum.
- B3.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator only to the Proponent who made the enquiry.
- B3.5 All correspondence or contact by Proponents with the City in respect of this RFP must be directly and only with the City's Contract Administrator. Failure to restrict correspondence and contact to the Contract Administrator may result in the rejection of the Proponents Proposal Submission.
- B3.6 The Proponent shall not be entitled to rely on any response or interpretation received pursuant to B3 unless that response or interpretation is provided by the Contract Administrator in writing.
- B3.7 Any enquiries concerning submitting through MERX should be addressed to:
MERX Customer Support
Phone: 1-800-964-6379
Email: merx@merx.com

B4. CONFIDENTIALITY

- B4.1 Information provided to a Proponent by the City or acquired by a Proponent by way of further enquiries or through investigation is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator. The use and disclosure of the Confidential Information shall not apply to information which:
- (a) was known to the Proponent before receipt hereof; or
 - (b) becomes publicly known other than through the Proponent; or
 - (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.
- B4.2 The Proponent shall not make any statement of fact or opinion regarding any aspect of the Request for Proposals to the media or any member of the public without the prior written authorization of the Contract Administrator.

B5. ADDENDA

- B5.1 The Contract Administrator may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Request for Proposal, or clarifying the meaning or intent of any provision therein.
- B5.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.
- B5.3 Addenda will be available on the MERX website at www.merx.com.
- B5.4 The Proponent is responsible for ensuring that he/she has received all addenda and is advised to check the MERX website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.
- B5.5 The Proponent shall acknowledge receipt of each addendum in Paragraph 10 of Form A: Bid/Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.
- B5.6 Notwithstanding B3, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D6.

B6. PROPOSAL SUBMISSION

- B6.1 Proponents should note that the use of Sub-Consultants shall not be allowed to perform any Work in the delivering of this Contract.
- B6.2 The Proposal shall consist of the following components:
(a) Form A: Bid/Proposal (Section A) in accordance with B7;
(b) Form B: Fees (Section B) in accordance with B8.
- B6.3 The Proposal should also consist of the following components:
(a) Experience of Proponent (Section C) in accordance with B9;
(b) Experience of Key Personnel Assigned to the Project (Section D), in accordance with B10;
(c) Project Understanding and Methodology (Section E) in accordance with B11; and
(d) Project Schedule (Section F) in accordance with B12.
- B6.4 Further to B6.2 all components of the Proposal shall be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Proposal.
- B6.5 Further to B6.3, all components of the Proposal should be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely.
- B6.6 Proposal format, including number of pages, size of pages and, font, etc., will not be regulated, except that the Proposal should contain a table of contents, page numbering and should be in the Sections identified above. Proponents are encouraged to use their creativity to submit a Proposal which provides the requested information for evaluation and other information which illustrates the strength of their proposed solution.
- B6.7 The Proposal shall be submitted electronically through MERX at www.merx.com.
- B6.7.1 Proposals will **only** be accepted electronically through MERX.
- B6.8 Proponents are advised that inclusion of terms and conditions inconsistent with the Request for Proposal, will be evaluated in accordance with B21.1(a).

B6.9 Any cost or expense incurred by the Proponent that is associated with the preparation of the Proposal shall be borne solely by the Proponent.

B7. PROPOSAL (SECTION A)

B7.1 The Proponent shall complete Form A: Bid/Proposal, making all required entries.

B7.2 Paragraph 2 of Form A: Bid/Proposal shall be completed in accordance with the following requirements:

- (a) if the Proponent is a sole proprietor carrying on business in his/her own name, his/her name shall be inserted;
- (b) if the Proponent is a partnership, the full name of the partnership shall be inserted;
- (c) if the Proponent is a corporation, the full name of the corporation shall be inserted;
- (d) if the Proponent is carrying on business under a name other than his/her own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.

B7.2.1 If a Proposal is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B7.2

B7.3 In Paragraph 3 of Form A: Bid/Proposal, the Proponent shall identify a contact person who is authorized to represent the Proponent for purposes of the Proposal.

B7.4 Paragraph 13 of Form A: Bid/Proposal shall be signed in accordance with the following requirements:

- (a) if the Proponent is a sole proprietor carrying on business in his/her own name, it shall be signed by the Proponent;
- (b) if the Proponent is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
- (c) if the Proponent is a corporation, it shall be signed by its duly authorized officer or officers;
- (d) if the Proponent is carrying on business under a name other than his/her own, it shall be signed by the registered owner of the business name, or by the registered owner's authorized officials if the owner is a partnership or a corporation.

B7.4.1 The name and official capacity of all individuals signing Form A: Bid/Proposal should be entered below such signatures.

B7.5 If a Proposal is submitted jointly by two or more persons, the word "Proponent" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Proponents in the Proposal and the Contract, when awarded, shall be both joint and several.

B8. FEES (SECTION B)

B8.1 The Proponent shall state a price in Canadian funds for each item of the Work identified on Form B: Fees.

B8.1.1 Notwithstanding C12.2.3, prices on Form B: Fees shall not include the Goods and Services Tax (GST) or Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable. The quantities listed on Form B: Fees are to be considered approximate only. The City will use said quantities for the purpose of comparing Proposals.

B8.2 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.

B8.3 Where applicable, payments to Non-Resident Contractors are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B9. EXPERIENCE OF PROPONENT (SECTION C)

B9.1 Proposals should include:

- (a) details demonstrating the history and experience of the Proponent in providing programming; design, management of the project and contract administration services on three projects of similar complexity, scope and value. Projects should include compliance and performance audits of real estate transactions for municipal, provincial and federal governments with ideally one project from each of these sectors:
 - (i) Acquisition of property;
 - (ii) Sale of property;
 - (iii) Lease of property where the subject is the Lessee; and
 - (iv) Lease of property where the subject is the Lessor.

B9.2 For each project listed in B9.1(a), the Proponent should submit:

- (a) description of the project including project owner, objectives, size, schedule, assignment outcomes, achievements and any other relevant project information;
- (b) role of the consultant;
- (c) project's original contracted cost and final cost;
- (d) design and schedule (anticipated Project schedule and actual project delivery schedule, showing design separately);
- (e) project owner; and
- (f) reference information (two current names with telephone numbers per project).

B9.3 The Proposal should include general firm profile information, including years in business, average volume of work, number of employees and other pertinent information for the Proponent.

B9.4 For evaluation purposes, preference will be given to Proponents with demonstrated experience with Canadian municipal governments.

B10. EXPERIENCE OF KEY PERSONNEL ASSIGNED TO THE PROJECT (SECTION D)

B10.1 Describe your approach to overall team formation and coordination of team members.

B10.1.1 Include an organizational chart for the Project.

B10.2 Identify the following Key Personnel assigned to the Project:

- (a) project manager;

B10.3 Submit the experience and qualifications of the Key Personnel assigned to the Project for projects of similar complexity, scope and value, including the principals-in-charge, the Consultants Representative, managers of the key disciplines and lead designers. Include educational background and degrees, professional recognition, job title, years of experience in current position, years of experience in design and years of experience with existing employer. Roles of each of the Key Personnel in the Project should be identified in the organizational chart referred to in B10.1.1 and should include:

- (a) Working knowledge and experience in reviewing real estate transactions including major, complex and diverse transactions related to lease, acquisition, sale, and real estate valuation;
- (b) Knowledge in legal analysis pertaining to real estate transactions and understanding related municipal by-laws, policies and processes;
- (c) Experience, relevant educational background and professional recognition in an area of real estate such as Accredited Appraiser Canadian Institute (AACI), Canadian Residential

Appraiser (CRA), Certified Property Manager (CPM), Certified Leasing Professional (CLP), Fellow of the Real Estate Institute (FRI), or Senior Right of Way Professional (SR/WA);

- (d) Experience, relevant educational background in auditing and project management with designation such as Charter Professional Accountant (CPA); and
- (e) Job title, years of experience in current position and years of experience with existing employer.

B10.4 For each person identified, list at least two comparable projects in which they have played a primary role similar to that proposed for this Project. If a project selected for a key person is included in B9, provide only the project name and the role of the key person. For other projects provide the following:

- (a) Description of project including project owner, objectives, size, schedule, assignment outcomes, achievements and any other relevant project information;
- (b) Role of the person; and
- (c) Reference information (two current names with telephone numbers per project).

B11. PROJECT UNDERSTANDING AND METHODOLOGY (SECTION E)

B11.1 Describe your firm's project management approach and team organization during the performance of Services, so that the evaluation committee has a clear understanding of the methods the Proponent will use in the delivery of this Project.

B11.2 Methodology should be presented in accordance with the Scope of Services identified in D3.

B11.3 Describe the collaborative process/method to be used by the Key Personnel of the team in the various phases of the Project.

B11.4 Proposals should address:

- (a) A description of the approach to develop criteria for evaluation compliance of various types of real estate and management services transactions;
- (b) A complete definition of the process of compliance review that will be employed by the Key Personnel to meet the objectives of the Project, (e.g. Approach to be taken etc.);
- (c) A detailed description of any information, resources, or services required to be provided by The City of Winnipeg;
- (d) Any potential risks and solutions to minimize these risks (e.g. quick turnaround for completion of each compliance review);
- (e) the City's Project methodology with respect to the information provided within this RFP and the City's Project Management Manual at <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#2> and templates at <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#4> ; and;
- (f) any other information that conveys your team's understanding of the Project requirements.

B11.5 For each person identified in B10.2, list the percent of the person's time to be dedicated to the Project in accordance with the Scope of Services identified in D3.

B12. PROJECT SCHEDULE (SECTION F)

B12.1 Proponents should present a carefully considered Critical Path Method schedule using Microsoft Project or similar project management software, complete with resource assignments (key personnel), durations (weekly timescale) and milestone dates or events. The schedule should address each requirement of the Scope of Services.

B12.2 The Proponent's schedule should include critical dates for review and approval processes by the City. Reasonable times should be allowed for completion of these processes.

B13. DISCLOSURE

B13.1 Various Persons provided information or services with respect to this RFP. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.

B13.2 The Persons are|: N/A

(a) N/A

B14. CONFLICT OF INTEREST AND GOOD FAITH

B14.1 Proponents, by responding to this RFP, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B14.2 Conflict of Interest means any situation or circumstance where a Proponent or Key Personnel proposed for the Services has:

- (a) other commitments;
- (b) relationships;
- (c) financial interests; or
- (d) involvement in ongoing litigation;

that could or would be seen to:

- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Proposals or award of the Contract; or
 - (ii) compromise, impair or be incompatible with the effective performance of a Proponent's obligations under the Contract;
- (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of its participation in the RFP process or the Project; or
- (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the RFP process) of strategic and/or material relevance to the RFP process or to the Project that is not available to other Proponents and that could or would be seen to give that Proponent an unfair competitive advantage.

B14.3 In connection with its Proposal, each entity identified in B14.2 shall:

- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Project;
- (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the RFP process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Contract Administrator; and
- (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.

B14.4 Without limiting B14.3, the City may, in its sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Proponent to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in its sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

B14.5 Without limiting B14.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in its sole discretion:

- (a) disqualify a Proponent that fails to disclose a perceived, potential or actual Conflict of Interest of the Proponent or any of its Key Personnel;
- (b) require the removal or replacement of any Key Personnel proposed for the Services that has a perceived, actual or potential Conflict of Interest that the City, in its sole discretion, determines cannot be avoided or mitigated;
- (c) disqualify a Proponent or Key Personnel proposed for the Services that fails to comply with any requirements prescribed by the City pursuant to B14.4 to avoid or mitigate a Conflict of Interest; and
- (d) disqualify a Proponent if the Proponent, or one of its Key Personnel proposed for the Project, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.

B14.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in its sole discretion.

B15. QUALIFICATION

B15.1 The Proponent shall:

- (a) undertake to be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Proponent does not carry on business in Manitoba, in the jurisdiction where the Proponent does carry on business; and
- (b) be financially capable of carrying out the terms of the Contract;
- (c) have all the necessary experience, capital, organization, and equipment to perform the Services in strict accordance with the terms and provisions of the Contract;
- (d) have or establish and staff an office in Winnipeg for the duration of the Project.

B15.2 The Proponent shall:

- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <https://winnipeg.ca/finance/findata/matmgt/listing/debar.pdf>

B15.3 The Proponent shall:

- (a) have successfully carried out services for the programming; design, management and contract administration of similar complexity, scope and value; and to those required for this Project; and
- (b) be fully capable of performing the Services required to be in strict accordance with the terms and provisions of the Contract; and
- (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba);
- (d) have the knowledge and resources to administer the requirements of The Workplace Safety and Health Act (Manitoba) during the works associated with this Contract; and
- (e) undertake to meet all licensing and regulatory requirements of the appropriate governing authorities and associations in the Province of Manitoba;
- (f) adhere to all Province of Manitoba Health orders; and
- (g) always act in accordance with City of Winnipeg core values of Integrity, Diversity, Respect, Accountability and Quality which can be found at <https://winnipeg.ca/hr/pdfs/policies/CodeofConductPolicy.pdf>

B15.4 The Proponent shall submit, within three (3) Business Days of a request by the Contract Administrator, further proof satisfactory to the Contract Administrator of the qualifications of the Proponent.

B15.5 The Proponent shall provide, on the request of the Contract Administrator, full access to any of the Proponent's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Proponent's equipment and facilities are adequate to perform the Services.

B16. OPENING OF PROPOSALS AND RELEASE OF INFORMATION

B16.1 Proposals will not be opened publicly.

B16.2 After award of Contract, the Contract amount and the name of the successful Proponent and their address will be available on the MERX website at www.merx.com.

B16.3 The Proponent is advised any information contained in any Proposal Submission may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).

B16.3.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Proposal Submission identified by the Proponent as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B16.4 Following the award of Contract, a Proponent will be provided with information related to the evaluation of his/her submission upon written request to the Contract Administrator.

B17. IRREVOCABLE OFFER

B17.1 The Proposal(s) submitted by the Proponent shall be irrevocable for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B17.2 The acceptance by the City of any Proposal shall not release the Proposals of the other responsive Proponents and these Proponents shall be bound by their offers on such Services for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B18. WITHDRAWAL OF OFFERS

B18.1 A Proponent may withdraw his/her Proposal without penalty prior to the Submission Deadline.

B19. INTERVIEWS

B19.1 The Contract Administrator may, in his/her sole discretion, interview Proponents during the evaluation process.

B20. NEGOTIATIONS

B20.1 The City reserves the right to negotiate details of the Contract with any Proponent. Proponents are advised to present their best offer, not a starting point for negotiations in their Proposal Submission.

B20.2 The City may negotiate with the Proponents submitting, in the City's opinion, the most advantageous Proposals. The City may enter into negotiations with one or more Proponents without being obligated to offer the same opportunity to any other Proponents. Negotiations may be concurrent and will involve each Proponent individually. The City shall incur no liability to any Proponent as a result of such negotiations.

B20.3 If, in the course of negotiations pursuant to B20.2, the Proponent amends or modifies a Proposal after the Submission Deadline, the City may consider the amended Proposal as an

alternative to the Proposal already submitted without releasing the Proponent from the Proposal as originally submitted.

B21. EVALUATION OF PROPOSALS

B21.1 Award of the Contract shall be based on the following evaluation criteria:

- | | |
|--|-------------|
| (a) compliance by the Proponent with the requirements of the Request for Proposal or acceptable deviation therefrom: | (pass/fail) |
| (b) qualifications of the Proponent, pursuant to B15: | (pass/fail) |
| (c) Fees; (Section B) | 40% |
| (d) Experience of Proponent; (Section C) | 15% |
| (e) Experience of Key Personnel Assigned to the Project; (Section D) | 25 % |
| (f) Project Understanding and Methodology (Section E) | 15% |
| (g) Project Schedule. (Section F) | 5% |

B21.2 Further to B21.1(a), the Award Authority may reject a Proposal as being non-responsive if the Proposal Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Proposal, or waive technical requirements or minor informalities or irregularities if the interests of the City so require.

B21.3 Further to B21.1(b), the Award Authority shall reject any Proposal submitted by a Proponent who does not demonstrate, in its Proposal or in other information required to be submitted, that it is qualified.

B21.4 If, in the sole opinion of the City, a Proposal does not achieve a pass rating for B21.1(a) and B21.1(b), the Proposal will be determined to be non-responsive and will not be further evaluated.

B21.5 Further to B21.1(c), Fees will be evaluated based on Fees submitted in accordance with B8.

B21.6 Further to B21.1(c) Fees shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Fees.

B21.6.1 Further to B21.6, in the event that a unit price is not provided on Form B: Fees, the City will determine the unit price by dividing the Amount (extended price) by the approximate quantity, for the purposes of evaluation and payment.

B21.7 Further to B21.1(d), Experience of Proponent will be evaluated considering the experience of the organization on projects of similar size and complexity as well as other information requested, in accordance with B9.

B21.8 Further to B21.1(e), Experience of Key Personnel Assigned to the Project will be evaluated considering the experience and qualifications of the Key Personnel on Projects of comparable size and complexity, in accordance with B10.

B21.9 Further to B21.1(f), Project Understanding and Methodology will be evaluated considering your firm's understanding of the City's Project, project management approach and team organization, in accordance with B11.

B21.10 Further to B21.1(g), Project Schedule will be evaluated considering the Proponent's ability to comply with the requirements of the Project, in accordance with B12.

B21.11 Notwithstanding B21.1(d) to B21.1(g), where Proponents fail to provide a response to B6.3(a) to B6.3(d), the score of zero may be assigned to the incomplete part of the response.

B21.12 Proposals will be evaluated considering the information in the Proposal Submission and any interviews held in accordance with B19.

B21.13 This contract will be awarded as a whole.

B22. AWARD OF CONTRACT

B22.1 The City will give notice of the award of the Contract, or will give notice that no award will be made.

B22.2 The City will have no obligation to award a Contract to a Proponent, even though one or all of the Proponents are determined to be qualified, and the Proposals are determined to be responsive.

B22.2.1 Without limiting the generality of B22.2, the City will have no obligation to award a Contract where:

- (a) the prices exceed the available City funds for the Services;
- (b) the prices are materially in excess of the prices received for similar services in the past;
- (c) the prices are materially in excess of the City's cost to perform the Services, or a significant portion thereof, with its own forces;
- (d) only one Proposal is received; or
- (e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.

B22.3 Where an award of Contract is made by the City, the award shall be made to the qualified Proponent submitting the most advantageous offer.

B22.4 The City may, at its discretion, award the Contract in phases.

B22.5 Further to B22.4 the City reserves the right to negotiate and award future phases to the successful Proponent.

B22.6 Further to Paragraph 7 of Form A: Bid/Proposal and C4, the City may issue an award letter to the successful Proponent in lieu of execution of Contract Documents

B22.6.1 The Contract documents as defined in C1.1(o)(ii) in their entirety shall be deemed to be incorporated in and to form a part of the award letter notwithstanding that they are not necessarily attached to or accompany said award letter.

B22.7 The form of Contract with the City of Winnipeg will be based on the Contract as defined in C1.1(o).

B22.8 Following the award of Contract, a Proponent will be provided with information related to the evaluation of its Proposal upon written request to the Contract Administrator.

B22.9 If, after the award of Contract, the Project is cancelled, the City reserves the right to terminate the Contract. The Proponent will be paid for all Services rendered up to time of termination.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Consultant Services* (Revision 2017-03-24) are applicable to the Services of the Contract.
- C0.1.1 The *General Conditions for Consultant Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm.
- C0.2 A reference in the Request for Proposal to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Consultant Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for Consultant Services*, these Supplemental Conditions are applicable to the Services of the Contract.

D2. BACKGROUND

D2.1 History of the Independent Fairness Commissioner Role

- (a) On July 9, 2014, City Council concurred in the recommendation of the Executive Policy Committee, to adopt the report for the City of Winnipeg Real Estate Management Review Findings and Recommendations Report dated June 19, 2014 prepared by Ernst & Young LLP and adopted the following recommendations:
- (i) That the City of Winnipeg create an Independent Fairness Commissioner (IFC), who would have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council, and that they would report directly to Council, via and under the Office of the City Auditor;
 - (ii) That the power to review and comment on all real estate transactions by the IFC, be retroactive to all potential transactions now underway and that the said IFC be reviewed by Council in 5 years;
 - (iii) That the City (sic) Auditor, in consultation with the City Solicitor, report to Council for the purpose of approving the mandate/model for the IFC and the financial resources required for the operation of the said Independent Fairness Commissioner.

Council Minutes can be found at:

<http://clkapps.winnipeg.ca/dmis/ViewPdf.asp?SectionId=375300>

- (b) At its meeting on September 28, 2016, Council adopted a recommendation that the model for the Independent Fairness Commissioner role, for compliance review of all real estate transactions and management services prior to presentation to Standing Policy Committee and/or Council, be approved as an external award contract.

Council Minutes can be found at:

<http://clkapps.winnipeg.ca/dmis/ViewPdf.asp?SectionId=447441>

- (c) Real estate transactions and management services primarily fall under the parameters of two divisions. The Real Estate Division is responsible for all land acquisitions, exchanges, sales, expropriations and granting of property rights. The Municipal Accommodations Division is responsible for management services transactions relating to the lease of City owned property, and licenses and the external lease of buildings for City use.
- (d) On January 28, 2009, Council approved the Delegation of Authority for Real Property Transactions, which is currently utilized by the Real Estate and Municipal Accommodations Divisions.

Council Minutes can be found at:

<http://clkapps.winnipeg.ca/dmis/ViewPdf.asp?SectionId=216154>

- (e) The types of transactions outside of the current Delegation of Authority, with reporting requirements to Standing Policy Committee on Property and Development, Heritage and Downtown Development (SPCPDHDD) and Council could include but are not limited to:
- (i) **Real Estate Transactions:**
 - (i) Sale of City-owned property with a transaction price of \$500,000+;

- (ii) Sale at a transaction price less than 95% of the appraised value or less than 100% of SPCPDHDD pre-approved price;
- (iii) Sale of property not through a public offering (with the exception of the sale of small lots, pedestrian walkways, closed lanes and similar parcels of land to an adjacent property owner);
- (iv) Sale at a transaction price of \$1.00 or at a non-market rate;
- (v) Sale to a non-profit organization at less than market value;
- (vi) Sale of any City-owned property designated/zoned or under the jurisdiction as park land that require approval by a 2/3 vote of Council;
- (vii) Land exchange at any transaction price;
- (viii) Acquisition of property with a transaction price of \$100,000+ for property identified under a Council approved project;
- (ix) Acquisition of property that is not part of a Council approved program or project, or where the project has not yet been adopted by Council;
- (x) Acquisition by way of property donation to the City;
- (xi) Expropriation or acquisition settlements involving land exchange and a negotiated transaction price;
- (xii) Expropriation offers of compensation of \$25,000+;
- (xiii) Expropriation settlements of \$100,000+ (this unique transaction has reporting requirements to Executive Policy Committee); and
- (xiv) Granting of a significant easement, option to purchase, or granting of any rights over, under and upon City property.

(ii) Management Services Transactions:

- (i) Lease where the City is the Lessee and the term is more than 10 years with a gross value of \$1,000,000+;
- (ii) Lease or Licence where the City is the Lessor and the gross value of the lease is \$500,000+;
- (iii) Lease where the City is the Lessor where the lease is not based on current market value or is based on a term of 5+ years;
- (iv) Lease where the City is the Lessor and the lease does not include a cancellation clause; and
- (v) Granting of encroachments of a commercial and unusual nature.

Council Minutes can be found at:

<http://clkapps.winnipeg.ca/dmis/ViewPdf.asp?SectionId=447441>

- (f) At its meeting on May 29, 2020, Council adopted a recommendation that the mandate for the Independent Fairness Commissioner (IFC) role, for compliance review of all real estate transactions and management services prior to presentation to Standing Policy Committee (SPC) and/or Council, be limited to the review of sales, acquisitions, land exchanges and leases.

Council Minutes can be found at:

<https://clkapps.winnipeg.ca/dmis/ViewDoc.asp?DocId=19942&SectionId=&InitUrl=>

- (g) At its meeting on September 29, 2021 Council adopted a new Real Estate Policy Framework.

Council Minutes can be found at:

<https://clkapps.winnipeg.ca/dmis/ViewDoc.asp?DocId=21213&SectionId=&InitUrl=>

D2.2 History of Transactions Reviews

The following is provided for information purposes only.

	2020	2021
Routine/Low Risk Transactions	29	17
Complex/High Risk Transactions	2	3
Total	31	20

D3. SCOPE OF SERVICES

D3.1 The City requires the Services of a Consultant to act as an Independent Fairness Commissioner (IFC) to conduct compliance reviews of real estate transactions and management services which require presentation SPCPDHDD and/or Council for the period July 1, 2022 until June 30, 2023 with the option of four (4) mutually agreed upon one (1) year extensions.

D3.1.1 The City may negotiate the extension option with the Contractor within ninety (90) Calendar Days prior to the expiry date of the Contract. The City shall incur no liability to the Contractor as a result of such negotiations.

D3.1.2 Changes resulting from such negotiations shall become effective on July 1st of the respective year. Changes to the Contract shall not be implemented by the Contractor without written approval by the Contract Administrator.

D3.2 The major components of the Work include, but not limited to:

- (a) Phase 1 – Development of Compliance Framework. See E2.2 for further details.
- (b) Phase 2 – Review of Individual Transactions. See E2.3 for further details.

D3.1 The Work shall be done on an "as required" basis during the term of the Contract.

D3.1.1 The type and quantity of Work to be performed under this Contract shall be as authorized from time to time by the Contract Administrator and/or Users.

D3.1.2 Subject to C7, the City shall have no obligation under the Contract to purchase any quantity of any item in excess of its actual operational requirements.

D4. COOPERATIVE PURCHASE

D4.1 The Contractor is advised that this is a cooperative purchase.

D4.2 The Contract Administrator may, from time to time during the term of the Contract, approve other public sector organizations and utilities, including but not limited to municipalities, universities, schools and hospitals, to be participants in the cooperative purchase.

D4.3 The Contract Administrator will notify the Contractor of a potential participant and provide a list of the delivery locations and estimated quantities.

D4.4 If any location of the potential participant is more than ten (10) kilometres beyond the boundaries of the City of Winnipeg, the Contractor shall, within fifteen (15) Calendar Days of the written notice, notify the Contract Administrator of the amount of any additional delivery charge for the location.

D4.5 If any additional delivery charges are identified by the Contractor, the potential participant may accept or decline to participate in the cooperative purchase.

D4.6 The Contractor shall enter into a contract with each participant under the same terms and conditions as this Contract except:

- (a) supply under the contract shall not commence until the expiry or lawful termination of any other contract(s) binding the participant for the same goods;
- (b) a participant may specify a duration of contract shorter than the duration of this Contract;
- (c) a participant may specify that only some items under this Contract and/or less than its total requirement for an item are to be supplied under its contract; and
- (d) any additional delivery charge identified and accepted in accordance with clause D4.4 and D4.5 will apply.

D4.7 Each participant will be responsible for the administration of its contract and the fulfilment of its obligations under its contract. The City shall not incur any liability arising from any such contract.

D4.8 No participant shall have the right or authority to effect a change in the Contract, or of any other participant in this Contract."

D5. DEFINITIONS

D5.1 When used in this Request for Proposal:

- (a) "**Contract Administrator**" means the City of Winnipeg employee designated as such in overseeing the Contract, and for requesting "as required" services;
- (b) "**IFC**" means Independent Fairness Commissioner;
- (c) "**Key Personnel**" means the person undertaking the performance of the services under the terms of the Contract; and
- (d) "**Public Service**" means employees of the City of Winnipeg, typically employed by the Planning, Property and Development Department – Real Estate Division, or the Asset and Project Management Department (Municipal Accommodations)

D6. CONTRACT ADMINISTRATOR

D6.1 The Contract Administrator is:

Joe Anne Wiebe

Telephone No. 204 986-3404

Email Address: jwiebe@winnipeg.ca

D6.2 At the pre-commencement meeting, the Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

SUBMISSIONS

D7. AUTHORITY TO CARRY ON BUSINESS

D7.1 The Consultant shall be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Consultant does not carry on business in Manitoba, in the jurisdiction where the Consultant does carry on business, throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D8. INSURANCE

D8.1 The Consultant shall procure and maintain, at its own expense and cost, insurance policies with limits no less than those shown below.

- D8.2 As a minimum, the Consultant shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:
- (a) Comprehensive or Commercial General Liability Insurance including:
 - (i) an inclusive limit of not less than \$2,000,000 for each occurrence or accident with a minimum \$2,000,000 Products and Completed Operations aggregate and \$5,000,000 general aggregate;
 - (ii) all sums which the Consultant shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to the Services or any operations carried on in connection with this Contract;
 - (iii) coverage for Products/Completed Operations, Blanket Contractual, Consultant's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, Employees as Additional Insureds, and Non-Owned Automobile Liability;
 - (iv) a Cross Liability clause and/or Severability of Interest clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder in respect to any claim, demand, suit or judgment made against any other Insured.
 - (b) if applicable, Automobile Liability Insurance covering all motor vehicles, owned and operated and used or to be used by the Consultant directly or indirectly in the performance of the Service. The limit of liability shall not be less than \$2,000,000 inclusive for loss or damage including personal injuries and death resulting from any one accident or occurrence.
 - (c) Professional Errors and Omissions Liability Insurance including:
 - (i) an amount not less than \$250,000.00 per claim and \$ 500,000.00 in the aggregate.
- D8.2.1 The Consultant's Professional Errors and Omissions Liability Insurance shall remain in force for the duration of the Project and for twelve (12) months after Total Performance.
- D8.3 The policies required in D8.2(a) shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.
- D8.4 The Consultant shall require any Consultants hired to perform geo technical drilling and sample collecting or closed-circuit television to procure and maintain, at its own expense and cost, comparable insurance to that set forth under D8.2(a) and D8.2(b).
- D8.5 The Consultant shall require each of its Subconsultants hired for design, architectural or engineering services as outlined in the Scope of Services to provide comparable insurance to that set forth under D8.2(a) and D8.2(c).
- D8.6 The Consultant shall provide the Project Manager with a certificate(s) of insurance in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Services, but in no event later than the date specified in C4.1 for the return of the executed Contract. Such certificates shall state the exact description of the Services and provide for written notice in accordance with D8.9.
- D8.7 The Consultant may take out such additional insurance as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.
- D8.8 All insurance, which the Consultant is required to obtain with respect to this Contract, shall be with insurance companies registered in and licensed to underwrite such insurance in the Province of Manitoba.
- D8.9 The Consultant shall not cancel, materially alter, or cause any policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the City.

SCHEDULE OF SERVICES

D9. COMMENCEMENT

- D9.1 The Consultant shall not commence any Services until it is in receipt of a notice of award from the City authorizing the commencement of the Services.
- D9.2 The Consultant shall not commence any Services until:
- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D7; and
 - (ii) evidence of the insurance specified in D8.
 - (b) the Consultant has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.
 - (c) The direct deposit application specified in D13.1.

D10. CRITICAL STAGES

- D10.1 It should be noted that the IFC's review and reporting process could potentially impact service delivery. Timeliness in reviewing transactions is critical to the performance of the Real Estate and Management Services division and is seen as a high priority. Typically, the turnaround time is about ten days. The Consultant shall achieve critical stages of the Services for this Contract in accordance with the following requirements:
- (a) within five (5) days of notification from the Public Service that a transaction requires review, the Consultant will complete conflict checks and set up electronic file share system for the Public Service to provide documents for review;
 - (b) a minimum of five (5) Business Days prior to the agenda posting of the committee meeting, the IFC will provide a draft report for review by the Public Service and the City Auditor; and
 - (c) a minimum of two (2) Business Days of the agenda posting of the committee meeting the IFC will provide a final report for review by the Public Service and the City Auditor for submission to the Committee by the Contract Administrator.

D11. COVID-19 SCHEDULE DELAYS

- D11.1 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the Services shall be performed by the Consultant with due consideration to the health and safety of workers and the public, directives from health authorities and various levels of government and in close consultation with the Contract Administrator.
- D11.2 If the Consultant is delayed in the performance of the Services by reason of the COVID-19 pandemic, the Services schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.
- D11.3 A minimum of seven (7) Calendar Days prior to the commencement of Services, the Consultant shall declare whether COVID-19 will affect the start date. The Consultant shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of material or work by others.
- D11.4 For any delay related to COVID-19 and identified after Services have commenced, the Consultant shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D11.3. Failure to provide this notice will result in no additional time delays being considered by the City.
- D11.5 The Services schedule, including the durations identified in the Contract, will be adjusted to reflect delays accepted by the Contract Administrator.

- D11.6 Any time or cost implications as a result of COVID-19 and in accordance with the above, as confirmed by the Contract Administrator, shall be documented in accordance with C8.

MEASUREMENT AND PAYMENT

D12. INVOICES

- D12.1 Further to C11, the Consultant shall submit an invoice for each portion of Work performed. to:

The City of Winnipeg
Corporate Finance - Accounts Payable
4th Floor, Administration Building, 510 Main Street
Winnipeg MB R3B 1B9

Facsimile No.: 204-949-0864

Send Invoices to CityWpgAP-INVOICES@winnipeg.ca

Send Invoice Inquiries to CityWpgAP-INQUIRIES@winnipeg.ca

- D12.2 Invoices must clearly indicate, as a minimum:

- (a) the City's purchase order number;
- (b) date of delivery;
- (c) delivery address;
- (d) type and quantity of work performed;
- (e) the amount payable with GST and MRST shown as separate amounts; and
- (f) the Consultant's GST registration number.

- D12.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D13. PAYMENT

- D13.1 Further to C11.14, the City shall make payments to the Consultant by direct deposit to the Consultant's banking institution, and by no other means. Payments will not be made until the Consultant has made satisfactory direct deposit arrangements with the City. Direct deposit application forms are at https://winnipeg.ca/finance/files/Direct_Deposit_Form.pdf.

PART E - SPECIFICATIONS

GENERAL

E1. APPLICABLE SPECIFICATIONS AND DRAWINGS

E1.1 These Specifications shall apply to the Work.

E1.2 The following are applicable to the Work.

<u>Specification No.</u>	<u>Specification Title</u>
Appendix A	Compliance Framework V1.06 – November 2020
Appendix B	Risk & Complexity Tool

E2. SERVICES

E2.1 The Contractor shall develop a program, and review specific real estate transactions in accordance with the requirements hereinafter specified.

E2.1.1 The majority of transaction documentation for review is provided by the Public Service the proponent must provide a secure, confidential electronic system for sharing files in which files are housed in Canada. In the event that the Consultant intends to utilize any Cloud computing services, software, or solutions to deliver Services pursuant to this Contract, it must inform the City of same in writing in advance and obtain written permission from the Contract Administrator to utilize same.

E2.2 Item No. 1 – Development of Compliance Framework shall be:

- (a) The development of criteria for evaluating compliance of the different types of real estate and management services transactions, based on the preliminary review criteria attached as Appendix A: Compliance Framework V1.06 – November 2020, with additional input from the Department's internal Real Estate Transaction Management Framework attached as Appendix B and in coordination with the Director of Planning, Property & Development Department and the City Auditor.
- (b) This will be subject to review and adjusted as necessary.

E2.3 Item No. 2 – Review of Individual Transactions shall be the review of transactions on an “as required” basis to ensure each transaction is compliant with all applicable City of Winnipeg by-laws, policies and procedures.

- (a) Reviews shall include, but not limited to the Department's Internal Real Estate Transaction Management Framework and the requirements for fairness, openness and transparency:
 - (i) the level of assurance to be provided is positive assurance (aka as audit level assurance).
- (b) At the onset of each transaction review, the IFC shall:
 - (i) declare any conflict of interest as outlined in D6; and
 - (ii) confirms the complexity rating of the transaction, in accordance with the guidance provided in Appendix B: Transaction Complexity Assessment Tool and in consultation with the Contract Administrator.
- (c) Submit an independent draft report on the compliance review to the City Auditor and the Public Service, at minimum five (5) Business Days prior to the posting of the committee meeting agenda. The final version must be submitted two (2) Business Days prior to the committee agenda posting date to the City Auditor
 - (i) The independent report for each transaction must include finding as to whether:
 - (i) the transaction is compliant with the review criteria, by-laws, policies and procedures of the City of Winnipeg;

- (ii) the transaction approval limits, delegated authority and reporting requirements were complied with;
 - (iii) all undertakings are in within the limitations of prescribed administrative rules and practices, guidelines, City by-laws and standards;
 - (iv) all undertakings are consistent with policy objectives, reflect ethical conduct, fairness, openness and transparency;
 - (v) security, independence and confidentiality have been maintained;
 - (vi) fairness, objectivity, impartiality, clarity, openness and transparency have been maintained; and
 - (vii) all relevant information was provided to decision makers in the administrative report submitted for approval of the transaction.
- (d) The IFC shall attend SPCPDHDD Committee regular meetings and any special meetings where its report is tabled via Zoom link or in person.

E2.3.1 Council Committee meeting schedule can be found at: <https://clkapps.winnipeg.ca/dmis/>

- (a) Agendas are posted four (4) Business Days in advance of the meeting, ([Procedures By-Law No. 5400/90](#))