



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 695-2023

PROFESSIONAL CONSULTING SERVICES FOR INDIGENOUS LIAISON

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 PROFESSIONAL CONSULTING SERVICES FOR INDIGENOUS LIAISON

B2. SUBMISSION DEADLINE

B2.1 The last day for submission to request an early determination of Conflict of Interest as set out in B14.7 is September 25, 2023.

B2.2 The Submission Deadline is 12:00 noon Winnipeg time, October 6, 2023.

B2.3 The Consulting 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 B2.2.

B3. ENQUIRIES

B3.1 All enquiries shall be directed to the Consulting Contract Administrator identified in D2.

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 Consulting 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 Consulting Contract Administrator, require a correction to or a clarification of the Request for Proposal will be provided by the Consulting Contract Administrator to all Proponents by issuing an addendum.

B3.4 Responses to enquiries which, in the sole judgment of the Consulting Contract Administrator, do not require a correction to or a clarification of the Request for Proposal will be provided by the Consulting 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 Consulting Contract Administrator. Failure to restrict correspondence and contact to the Consulting 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 Consulting 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 Consulting 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 Consulting Contract Administrator.

B5. ADDENDA

B5.1 The Consulting 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 Consulting 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 they have 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 Consulting Contract Administrator indicated in D2.

B6. PROPOSAL SUBMISSION

B6.1 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; and
- (c) Form C: Rates (Section B) in accordance with B8.

B6.2 The Proposal should also consist of the following components:

- (a) Experience of Proponent and Subconsultants (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) Social Procurement Questionnaire (Section F) in accordance with B12.

B6.3 Further to B6.1 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.

B6.4 Further to B6.2, 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.

B6.5 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.

B6.6 The Proposal shall be submitted electronically through MERX at www.merx.com.

B6.6.1 Proposals will **only** be accepted electronically through MERX.

B6.7 Proponents are advised that inclusion of terms and conditions inconsistent with the Request for Proposal, will be evaluated in accordance with B21.1(a).

B6.8 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 their own name, their 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 their 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 their 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 their duly authorized officer or officers;
- (d) if the Proponent is carrying on business under a name other than their 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)

Time-Based Fees

B8.1 The Proposal shall include a Time-Based Fee for all work identified in D5 Scope of Services using Form B: Fees.

- (a) The Proponent shall make all the required entries in the Form to summarize their Fee proposal for the proposed Services.
- (b) The Proponent shall be responsible to verify and ensure the correctness of the associated submittals.

- B8.2 An approximate number of hours are indicated for each Time-Based Fees line item in Form B: Fees to guide the Proponent in developing their Fee Proposal.
- B8.3 If the Consultant determines the approximate hours proposed are insufficient or in excess to complete the specified Services, the Consultant may deviate from the approximate number of hours indicated for each line item.
- (a) Where the Consultant's proposed number of hours deviates from the approximate number of hours indicated in the RFP, the Consultant should provide a detailed explanation of the fees and how the Services will be accomplished.
- B8.4 The Fees proposed by the Proponent in Form B shall constitute an upset limit. The Consultant shall ensure the hours proposed are sufficient to complete the specified Services.**

Allowable Disbursements

- B8.5 Fees shall include Allowable Disbursements as defined in C1.1(b).
- B8.5.1 Notwithstanding C1.1(b), overhead costs or disbursements typically referred to as Type 1 disbursements or general expenses shall be included in the hourly rates.
- B8.6 An approximate total kilometer is indicated for each Allowable Disbursement line item in Form B: Fees to guide the Proponent in developing their Fee Proposal.
- (a) Where the number of total kilometers proposed by the Consultant deviates from the and total kilometers indicated in the RFP, the Consultant should provide a detailed explanation of the Allowable Disbursements and how the Services will be accomplished in their Proposal.
- B8.7 In addition to the Form B: Fees, if the Allowable Disbursements include additional line items beyond the Kilometer Rate, proposals should also include detailed description of the complete cost of the Allowable Disbursements.
- B8.8 The Allowable Disbursements proposed by the Proponent in Form B shall constitute an upset limit. The Consultant shall ensure the Allowable Disbursements proposed are sufficient to complete the specified Services.**

Rates

- B8.9 The Proposal shall include Form C: Rates for all:
- (a) Hourly Rates for all personnel identified; and
- (b) Kilometer Rates for all kilometers traveled.

Other Fee Information

- B8.10 Adjustments to Fees will only be considered based on increases to the Scope of Services.
- B8.10.1 The City will not consider an adjustment to the Fees based on insufficient hours or kilometers proposed in Form B: Fees.
- B8.10.2 The City will not consider an adjustment to the Fees based on changes in the Project budget or the Final Total Construction Cost.
- B8.10.3 The City will not consider adjustments to the Fees based on increases to Hourly Rates or Kilometer Rates after award of Contract.
- (a) Hourly Rates, Kilometer Rates, and allowable disbursements should include all rate escalations including salary adjustments, changes in inflationary factors, or employment terms.
- B8.10.4 If the City requires additional services, the rates to be used will be based on the Hourly Rates and Kilometer Rates provided in the Proponent's proposal in Form C: Rates.

- B8.11 Notwithstanding C11.1, Fees submitted 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.
- B8.12 Payments to Non-Resident Consultants are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B9. EXPERIENCE OF PROPONENT AND SUBCONSULTANTS (SECTION C)

B9.1 Proposals should include details demonstrating the history and experience of the Proponent and Subconsultants in providing Indigenous liaison services on two (2) projects.

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

- (a) description of the project;
- (b) role of the consultant;
- (c) project's original contracted cost and final cost;
- (d) duration of project;
- (e) location of project;
- (f) project owner;
- (g) reference information (two current names with telephone numbers and email addresses per project).

B9.2.1 Where applicable, information should be separated into Proponent and Subconsultant project listings.

B9.2.2 Higher scores will be given to reference projects greater than 2 years in duration, and located in the province of Manitoba.

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 and all Subconsultants.

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.

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

- (a) Indigenous Liaison Lead; and
- (b) Indigenous Liaison Backup.

B10.3 Submit the experience and qualifications of the Key Personnel assigned to the Project for similar projects. Include local knowledge and lived experience including but not limited to history of colonization and current realities of Indigenous peoples of Manitoba, educational background, professional recognition, job title, years of experience in current position, and years of experience with existing employer.

- (a) Higher scores will be given to Key Personnel with local knowledge and lived experience including but not limited to history of colonization and current realities of Indigenous peoples of Manitoba.

B10.4 For each person identified, list at least two (2) 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;
- (b) role of the person;
- (c) project owner;

- (d) duration of project;
- (e) location of project;
- (f) reference information (two current names with telephone numbers and email addresses per project).

B10.4.1 Higher scores will be given to reference projects greater than 2 years in duration, and located in the province of Manitoba.

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 D5.

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) the teams' understanding of liaising with Indigenous communities in Manitoba;
- (b) the teams' understanding of the City's responses to issues that impact Indigenous citizens;
- (c) the proposed Project budget and schedule;
- (d) the 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
- (e) any other issue that conveys your team's understanding of the Project requirements.

B12. SOCIAL PROCUREMENT QUESTIONNAIRE (SECTION F)

B12.1 The Proponent should fill in the questionnaire in accordance with the questionnaire instructions in Appendix A.

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:

- (a) Narratives Inc.;
- (b) Urban Systems Ltd.;
- (c) Treat One Development Corporation;
- (d) Sage Change Management Inc.;
- (e) Exchange Group LLP.;
- (f) Legacy Bowes Group Inc.; and
- (g) Clear Direction – Indigenous Consulting and Facilitation Services.

B13.3 Topics discussed with the Persons identified in B13.2(a) and (b) included:

- (a) Indigenous Liaison Services offered; and

(b) Indigenous protocol training offered.

B13.4 Topics discussed with the Persons identified in B13.2(c), (d), (e), (f), (g) included:

- (a) Reasons why organization did not submit a proposal for RFP 423-2023 Professional Consulting Services for Indigenous Liaison; and
- (b) Suggestions on how the City could improve RFP 423-2023 to entice organizations to submit a proposal.

B13.5 For clarity, RFP 423-2023 was the original RFP that was issued by the City, however, no proposals were received and the RFP is now being issued as RFP 695-2023.

B14. CONFLICT OF INTEREST AND GOOD FAITH

B14.1 Further to C3.2, 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 their 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 their 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 Consulting 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 their 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 their 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 their 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 their sole discretion:
- (a) disqualify a Proponent that fails to disclose a perceived, potential or actual Conflict of Interest of the Proponent or any of their 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 their 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 their 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 their sole discretion.
- B14.7 The City may, in its sole discretion, provide its prior written determination of whether a perceived, potential or actual Conflict of Interest exists provided such Person formally contacts the Consulting Contract Administrator and requests such determination.
- B14.8 To request the City's an early determination in accordance with B14.7, the Person shall submit the following information to the Consulting Contract Administrator no later than the last day as indicated in B2.1:
- (a) the full legal name of the Person that the Proponent wishes to include as a Proponent;
 - (b) a description of any perceived, potential or actual Conflict of Interest; and
 - (c) a description of the policies and procedures that will be put in place to avoid or mitigate, manage and minimize, any perceived, potential or actual Conflict of Interest.
- B14.8.1 Upon receipt of a request pursuant to B14.8 the City shall, in its sole discretion, make a determination as to whether:
- (a) it considers there to be a real, perceived or potential Conflict of Interest; and
 - (b) if such a Conflict of Interest can be avoided or satisfactorily mitigated.
- B14.8.2 If the City has determined, in its sole discretion, that the Person has a Conflict of Interest that cannot be avoided or satisfactorily mitigated, managed and minimized, the City will not provide its consent and, for the avoidance of doubt, add the name of the Person to the list of Ineligible Persons.
- B14.8.3 The City may, in its sole discretion, provide its consent in accordance with B14.7 on such terms and conditions as the City, in its sole discretion, may require, including that the Proponent has put into place adequate safeguards to avoid or to mitigate, manage and minimize the impact of any Conflict of Interest including provisions to ensure that any and all confidential information of the City that the Person may have continues to be kept confidential and not disclosed or used except as expressly allowed by the City.
- B14.8.4 The City will provide a response after receipt of the information outlined in B14.8 within five (5) Business Days.

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 and any proposed Subconsultant (for the portion of the Services proposed to be subcontracted to them) 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 and/or any proposed Subconsultant (for the portion of the Services proposed to be subcontracted to them) shall:

- (a) have successfully carried out services of similar complexity, scope and value 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); and
- (d) have completed the Accessible Customer Service online training required by the Accessibility for Manitobans Act (AMA) (see B15.4 and D7).

B15.4 Further to B15.3(d), the Proponent acknowledges they and all Subconsultants have obtained training required by the Accessibility for Manitobans Act (AMA) available at <http://www.accessibilitymb.ca/training.html> for anyone that may have any interaction with the public on behalf of the City of Winnipeg.

B15.5 The Proponent shall submit, within three (3) Business Days of a request by the Consulting Contract Administrator, further proof satisfactory to the Consulting Contract Administrator of the qualifications of the Proponent and of any proposed Subconsultant.

B15.6 The Proponent shall provide, on the request of the Consulting Contract Administrator, full access to any of the Proponent's equipment and facilities to confirm, to the Consulting 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 their submission upon written request to the Consulting 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 their Proposal without penalty prior to the Submission Deadline.

B19. INTERVIEWS

- B19.1 The Consulting Contract Administrator may, in their 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 and the Subconsultants, if any, pursuant to B15: | (pass/fail) |
| (c) Fees (Section B); | 10% |
| (d) Experience of Proponent and Subconsultant (Section C); | 5% |
| (e) Experience of Key Personnel Assigned to the Project (Section D); | 50% |
| (f) Project Understanding and Methodology (Section E); | 5% |
| (g) Social Procurement Questionnaire (Section F). | 30% |
- 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 their 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), the Award Authority may reject a Proposal as being non-responsive if it exceeds the funds available as shown in D5.4.
- B21.7 Further to B21.1(d), Experience of Proponent and Subconsultants will be evaluated considering the experience of the organization 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 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), Social Procurement Questionnaire will be evaluated considering information provided in response to B12. Points scored in the Social Procurement Questionnaire will be converted to the percent stated in B21.1(g).
- B21.11 Notwithstanding B21.1(d) to B21.1(g), where Proponents fail to provide a response to B6.2(a) to B6.2(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 Where references are requested, the reference checks to confirm information provided may not be restricted to only those submitted by the Proponent, and may include organizations representing Persons, known to have done business with the Proponent.

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 their 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 their 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(u) 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(v).
- B22.8 Following the award of Contract, a Proponent will be provided with information related to the evaluation of their Proposal upon written request to the Consulting 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 2022-09-02) 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.
- D1.2 The Consultant shall not substitute or replace Key Personnel throughout the duration of the Project without the permission of the Consulting Contract Administrator.
- (a) Experience and qualification as specified in B10.3 and B10.4 shall be submitted for all requested substitute(s) and replacement(s).

D2. CONSULTING CONTRACT ADMINISTRATOR

- D2.1 The Consulting Contract Administrator is:
Lana Obach, P.Eng., MASc., PMP
Telephone No. 204 986-8335
Email Address: lobach@winnipeg.ca
- D2.2 At the pre-commencement meeting, the Consulting Contract Administrator will identify additional personnel representing the Consulting Contract Administrator and their respective roles and responsibilities for the Services.

D3. DEFINITIONS

- D3.1 When used in this Request for Proposal:
- (a) “**Indigenous**” means First Nations, Inuit, and Red River Métis peoples;
- (b) “**Indigenous Stakeholder Gathering**” means a safe space for collaborative dialogue with Indigenous Stakeholders and the City of Winnipeg as described in D6;
- (c) “**Indigenous Stakeholders**” means any Indigenous person(s) or Indigenous organizations who may be representing any interest in the lands where the NEWPCC Upgrade project will be completed;
- (d) “**NEWPCC**” means the North End Sewage Treatment Plant (formerly known as the North End Water Pollution Control Centre) located at 2230 Main Street in Winnipeg, Manitoba;
- (e) “**NEWPCC Upgrade**” means the project the City of Winnipeg is completing at NEWPCC to accommodate future wastewater flows and loadings to the plant and to provide enhanced treatment capability to address environmental and public health concerns and regulatory requirements;
- (f) “**Supply Chain Disruption**” means an inability by the Contractor to obtain goods or services from third parties necessary to perform the Work of the Contract within the schedule specified therein, despite the Contractor making all reasonable commercial efforts to procure same. Contractors are advised that increased costs do not, in and of themselves, amount to a Supply Chain Disruption.

D4. BACKGROUND

- D4.1 On February 28, 2019, Council approved that the NEWPCC Upgrade project will be delivered in three individually executed capital projects:
- (a) NEWPCC Upgrade: Power Supply and Headworks Facilities (Headworks Facilities);
- (b) NEWPCC Upgrade: Biosolids Facilities (Biosolids Facilities); and
- (c) NEWPCC Upgrade: Nutrient Removal Facilities (Nutrient Removal Facilities).

D4.2 The Headworks Facilities project is currently in the construction phase.

D4.3 The Biosolids Facilities project is currently in the procurement phase.

D4.4 The Nutrient Facilities project is currently in the planning phase.

D5. SCOPE OF SERVICES

D5.1 The Consultant shall work with the Water and Waste Department and the Indigenous Relations Division.

D5.2 The Services required under this Contract shall consist of Indigenous Liaison in accordance with the following:

- (a) Attend a kick-off meeting with the City.
 - (i) For evaluation purposes, assume one (1) hour of time.
- (b) Provide advice to the City regarding successfully communicating with Indigenous Stakeholders, including, but not limited to, suggestions for resources and/or guidance materials for fostering good relationships with Indigenous Stakeholders in Manitoba.
- (c) In collaboration with the City, identify potential Indigenous Stakeholders for the NEWPCC Upgrade project.
 - (i) For evaluation purposes, assume a three (3) hour meeting with City employees from the Indigenous Relations Division and the Water and Waste Department.
- (d) General communication with internal staff as required.
 - (i) For evaluation purposes, assume quarterly internal update meetings from 2024 to the end of 2032 (36 internal meetings, each 1 hour in duration).
- (e) Manage and respond to inquiries from the Indigenous Stakeholders including by phone and email;
 - (i) For evaluation purposes, assume four (4) hours of time.
- (f) In order to better navigate the Indigenous Stakeholder Gathering(s), take time to educate themselves on the City's responses to issues that impact Indigenous citizens. The City will provide resources upon contract award.
 - (i) For evaluation purposes, assume ten (10) hours of educational time.
- (g) Any other duties necessarily incidental to the Services.
 - (i) For evaluation purposes, assume forty (40) hours of time.
- (h) Based on the Indigenous Stakeholders identified in D5.2(c), develop an Indigenous Stakeholders Gathering Plan per D6.
 - (i) City to review and provide comments on the Indigenous Stakeholders Gathering Plan before Consultant finalizes;
 - (ii) For evaluation purposes, assume fifteen (15) hours of time.
- (i) The Indigenous Stakeholders Gathering Plan should at a minimum include:
 - (i) number, location, and duration of gatherings;
 - (ii) itinerary and logistics of gatherings;
 - (iii) outreach and translation strategy for materials and signage, etc;
 - (iv) suggestions for Indigenous protocols to follow specific to each Indigenous Stakeholder Gathering;
 - (v) food, beverage, and honorarium, etc.
- (j) Upon approval of D5.2(c) and D5.2(h), invite the identified Indigenous Stakeholder(s) to participate in the Indigenous Stakeholder Gathering(s). Track all correspondence with Indigenous Stakeholders;
 - (i) For evaluation purposes, assume five (5) hours of time.

- (k) Plan, facilitate, and staff a minimum of six (6) Indigenous Stakeholder Gatherings including creating presentation(s) tailored to each Indigenous Stakeholder(s) as outlined in (h).
 - (i) For evaluation purposes, plan for one (1) gathering in Winnipeg, assuming a travel distance of less than 50km round trip, and five (5) gatherings in each Indigenous Stakeholder community, assuming a total round-trip distance of 2000km from Winnipeg to attend all 5 gatherings (a total of 2,050km for all 6 gatherings).
 - (ii) For evaluation purposes, assume one hundred (100) hours of time.
- (l) Develop a stand-alone Indigenous Stakeholder Gathering(s) Summary Report summarizing the gatherings and information received as it relates to D6.3(b) and D6.3(c);
 - (i) City to review and provide comments on the report before Consultant finalizes;
 - (ii) For evaluation purposes, assume ten (10) hours of time.
- (m) Provide updates throughout the entire duration of the NEWPCC Upgrade project to the Indigenous Stakeholder(s) in their communities at a frequency identified in D5.2(l).
 - (i) For evaluation purposes, assume quarterly external meetings from 2024 to the end of 2032 (36 external meetings, 2 hours in length, each with 4 hours of drive time = 216 hours) each at a round trip distance of 400km from Winnipeg (a total of 14,400km).

D5.3 Where possible, the Services shall be in accordance with the City's Project Management Manual <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#2> and templates <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#4> . Notwithstanding the foregoing, the Consultant is being engaged by the City for their professional expertise; the Consultant shall bring to the Consulting Contract Administrator's attention any aspect of the City's Project Management Manual or templates which the Consultant is of the opinion is not consistent with good industry practice.

D5.4 The funds available for this Contract are \$200,000.00 (including MRST).

D6. INDIGENOUS STAKEHOLDER GATHERINGS

D6.1 The Consultant shall attend and staff a minimum of six (6) Indigenous Stakeholder Gatherings.

D6.2 It is anticipated that the City will chair the gatherings with the support of the Consultant.

D6.3 The Indigenous Stakeholder Gathering(s) will result in reaching the following objectives:

- (a) Indigenous Stakeholders will gain an understanding of the NEWPCC Upgrade project and its impact on the land and water;
- (b) Indigenous Stakeholders will have the space and opportunity to share historical land usage knowledge, or other types of lived experience, with the City;
- (c) Indigenous Stakeholders will have the opportunity to suggest frequency and method(s) for updates to Indigenous Stakeholders throughout the duration of the NEWPCC Upgrade; and thereafter;
- (d) Indigenous Stakeholders questions and information are collected and considered; and
- (e) Indigenous Stakeholders understand how the information they share about historical land usage and lived experience was considered and incorporated (where possible) to ensure Heritage Resources are respected and protected on the NEWPCC Upgrade project.

D6.4 The City will reimburse the Consultant for expenses related to the Indigenous Stakeholder Gathering(s) and any update meetings as per D5.2(m), including, but not limited to, venue rental charges, equipment rental, catering for refreshments, translation, printing, postage, courier, newspaper advertising, photocopying, subject to prior approval of costs by the Consulting Contract Administrator.

- (a) For evaluation purposes, a cash allowance of up to \$30,000.00 shall be allowed for expenses relating to D6.4.

- (b) If the Consultant determines the cash allowance is insufficient or in excess to complete the Indigenous Stakeholder Gatherings and update meetings, the Consultant may deviate from the cash allowance amount.
 - (i) Where the Consultant's proposed cash allowance deviates from the cash allowance indicated in the RFP, the Consultant should provide a detailed explanation of the fees and how the cash allowance will be used.
- (c) Subject to prior approval of costs by the Consulting Contract Administrator, the Consultant can request pre-payment for expenses related to the Indigenous Stakeholder Gatherings(s) and any update meetings as per D5.2(m).

D7. ACCESSIBLE CUSTOMER SERVICE REQUIREMENTS

- D7.1 The Accessibility for Manitobans Act (AMA) imposes obligations on The City of Winnipeg to provide accessible customer service to all persons in accordance with the Customer Service Standard Regulation ("CSSR") to ensure inclusive access and participation for all people who live, work or visit Winnipeg regardless of their abilities.
- D7.1.1 The Consultant agrees to comply with the accessible customer service obligations under the CSSR and further agrees that when providing the Goods or Services or otherwise acting on the City of Winnipeg's behalf, shall comply with all obligations under the AMA applicable to public sector bodies.
- D7.1.2 The accessible customer service obligations include, but are not limited to:
- (a) providing barrier-free access to goods and services;
 - (b) providing reasonable accommodations;
 - (c) reasonably accommodating assistive devices, support persons, and support animals;
 - (d) providing accessibility features e.g. ramps, wide aisles, accessible washrooms, power doors and elevators;
 - (e) inform the public when accessibility features are not available;
 - (f) providing a mechanism or process for receiving and responding to public feedback on the accessibility of all goods and services; and
 - (g) providing adequate training of staff and documentation of same.

D8. UNFAIR LABOUR PRACTICES

- D8.1 Further to C3.2, the Consultant declares that in bidding for the Work and in entering into this Contract, the Consultant and any proposed Subconsultant(s) conduct their respective business in accordance with established international codes embodied in United Nations Universal Declaration of Human Rights (UDHR) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> International Labour Organization (ILO) <https://www.ilo.org/global/lang--en/index.htm> conventions as ratified by Canada.
- D8.2 The City of Winnipeg is committed and requires its Consultants and their Subconsultants, to be committed to upholding and promoting international human and labour rights, including fundamental principles and rights at work covered by ILO eight (8) fundamental conventions and the United Nations Universal Declaration of Human Rights which includes child and forced labour.
- D8.3 Upon request from the Consulting Contract Administrator, the Consultant shall provide disclosure of the sources (by company and country) of the raw materials used in the Work and a description of the manufacturing environment or processes (labour unions, minimum wages, safety, etc.).
- D8.4 Failure to provide the evidence required under D8.3, may be determined to be an event of default in accordance with C14.

- D8.5 In the event that the City, in its sole discretion, determines the Consultant to have violated the requirements of this section, it will be considered a fundamental breach of the Contract and the Consultant shall pay to the City a sum specified by the Consulting Contract Administrator in writing (“Unfair Labour Practice Penalty”). Such a violation shall also be considered an Event of Default, and shall entitle the City to pursue all other remedies it is entitled to in connection with same pursuant to the Contract.
- D8.5.1 The Unfair Labour Practice Penalty shall be such a sum as determined appropriate by the City, having due regard to the gravity of the Consultant’s violation of the above requirements, any cost of obtaining replacement goods/ services or rectification of the breach, and the impact upon the City’s reputation in the eyes of the public as a result of same.
- D8.5.2 The Consultant shall pay the Unfair Labour Practice Penalty to the City within thirty (30) Calendar Days of receiving a demand for same in accordance with D8.5. The City may also hold back the amount of the Unfair Labour Practice Penalty from payment for any amount it owes the Consultant.
- (a) The obligations and rights conveyed by this clause survive the expiry or termination of this Contract, and may be exercised by the City following the performance of the Work, should the City determine, that a violation by the Consultant of the above clauses has occurred following same. In no instance shall the Unfair Labour Practice Penalty exceed the total of twice the Contract value.

SUBMISSIONS

D9. AUTHORITY TO CARRY ON BUSINESS

- D9.1 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 Consulting Contract Administrator with evidence thereof upon request.

D10. INSURANCE

- D10.1 The Consultant shall procure and maintain, at their own expense and cost, insurance policies with limits no less than those shown below.
- D10.2 As a minimum, the Consultant shall, without limiting their obligations or liabilities under any other contract with the City, procure and maintain, at their 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. Such insurance may be met through the commercial general liability cover where applicable.
- D10.3 The policies required in D10.2(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.
- D10.4 The Consultant shall provide the Consulting Contract Administrator 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 C4.4(a) 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 D10.7.
- D10.5 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.
- D10.6 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.
- D10.7 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

D11. COMMENCEMENT

- D11.1 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.
- D11.2 The Consultant shall not commence any Services until:
 - (a) the Consulting Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D9; and
 - (ii) evidence of the insurance specified in D10.
 - (b) the Consultant has attended a meeting with the Consulting Contract Administrator, or the Consulting Contract Administrator has waived the requirement for a meeting;
 - (c) The direct deposit application specified in D15.1.
- D11.3 The City intends to award this Contract by November 24, 2023.

D12. CRITICAL STAGES

- D12.1 The Consultant shall achieve critical stages of the Services for this Contract in accordance with the following requirements:
 - (a) Kickoff meeting – one week after award;
 - (b) Identify potential Indigenous Stakeholders – 1 week after D12.1(a);
 - (c) Indigenous Stakeholders Gathering Plan due – 1 week after D12.1(b); and
 - (d) Indigenous Stakeholders Gathering(s) – as soon as possible after D12.1(c) is approved.

D13. SUPPLY CHAIN DISRUPTION SCHEDULE DELAYS

- D13.1 The City acknowledges that the schedule for this Contract may be impacted by Supply Chain Disruption. Commencement and progress of the Services shall be performed by the Consultant with due consideration to delivery requirements and schedule identified in the Contract, in close consultation with the Consulting Contract Administrator.
- D13.2 If the Consultant is delayed in the performance of the Services by reason of the Supply Chain Disruption, 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.
- D13.3 A minimum of seven (7) Calendar Days prior to the commencement of Services, the Consultant shall declare whether a Supply Chain Disruption will affect the start date. The Consultant shall provide sufficient evidence that the delay is directly related to a Supply Chain Disruption, including but not limited to evidence related to availability of staff, ordering of Material or Goods, production and/or manufacturing schedules or availability of staff as appropriate.
- D13.4 For any delay related to Supply Chain Disruption 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 D13.3. Failure to provide this notice will result in no additional time delays being considered by the City.
- D13.5 The Services schedule, including the durations identified in the Contract, will be adjusted to reflect delays accepted by the Consulting Contract Administrator.
- D13.6 Any time or cost implications as a result of Supply Chain Disruption and in accordance with the above, as confirmed by the Consulting Contract Administrator, shall be documented in accordance with C8.

D14. INVOICES

- D14.1 Further to C11, the Consultant shall submit a monthly 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
- D14.2 Invoices must clearly indicate, as a minimum:
- (a) the City's file number and RFP number (S-1192 and RFP No. 695-2023);
 - (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.
- D14.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D15. PAYMENT

D15.1 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.

DISPUTE RESOLUTION

D16. DISPUTE RESOLUTION

D16.1 If the Consultant disagrees with any opinion, determination, or decision of the Consulting Contract Administrator, the Consultant shall act in accordance with the Consulting Contract Administrator's opinion, determination, or decision unless and until same is modified by the process followed by the parties pursuant to D16.

D16.2 The entire text of C17.4 is deleted, and amended to read: "Intentionally Deleted"

D16.3 The entire text of C17.5 is deleted, and amended to read:

- (a) If Legal Services has determined that the Disputed Matter may proceed in the Appeal Process, the Consultant must, within ten (10) Business Days of the date of the Legal Services Response Letter, submit their written Appeal Form, in the manner and format set out on the City's Materials Management Website, to the Chief Administrative Officer, and to the Consulting Contract Administrator. The Consultant may not raise any other disputes other than the Disputed Matter in their Appeal Form.

D16.4 Further to C17, prior to the Consulting Contract Administrator's issuance of a Final Determination, the following informal dispute resolution process shall be followed where the Consultant disagrees with any opinion, determination, or decision of the Consulting Contract Administrator ("Dispute"):

- (a) In the event of a Dispute, attempts shall be made by the Consulting Contract Administrator and the Consultant's equivalent representative to resolve Disputes within the normal course of project dealings between the Consulting Contract Administrator and the Consultant's equivalent representative.
- (b) Disputes which in the reasonable opinion of the Consulting Contract Administrator or the Consultant's equivalent representative cannot be resolved within the normal course of project dealings as described above shall be referred to a without prejudice escalating negotiation process consisting of, at a minimum, the position levels as shown below and the equivalent Consultant representative levels:
 - (i) The Consulting Contract Administrator;
 - (ii) Supervisory level between the Consulting Contract Administrator and applicable Department Head;
 - (iii) Department Head.

D16.4.1 Names and positions of Consultant representatives equivalent to the above City position levels shall be determined by the Consultant and communicated to the City at the pre-commencement or kick off meeting.

D16.4.2 As these negotiations are not an adjudicative hearing, neither party may have legal counsel present during the negotiations.

D16.4.3 Both the City and the Consultant agree to make all reasonable efforts to conduct the above escalating negotiation process within twenty (20) Business Days, unless both parties agree, in writing, to extend that period of time.

D16.4.4 If the Dispute is not resolved to the City and Consultant's mutual satisfaction after discussions have occurred at the final escalated level as described above, or the time period set out in D16.4.3, as extended if applicable, has elapsed, the Consulting Contract

Administrator will issue a Final Determination as defined in C1.1(dd), at which point the parties will be governed by the Dispute Resolution process set out in C17.

THIRD PARTY AGREEMENTS

D17. FUNDING AND/OR CONTRIBUTION AGREEMENT OBLIGATIONS

D17.1 Funding for the Services of the Contract is being provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada and accordingly, as required by the applicable funding agreements, the following terms and conditions shall apply.

D17.2 For the purposes of D17:

- (a) **“Government of Canada”** includes the authorized officials, auditors, and representatives of the Government of Canada; and
- (b) **“Government of Manitoba”** includes the authorized officials, auditors, and representatives of the Government of Manitoba.

D17.3 Indemnification By Consultant

D17.3.1 In addition to the indemnity obligations outlined in C13 of the General Conditions for Consultant Services, the Consultant agrees to indemnify and save harmless the Government of Canada and the Government of Manitoba and each of their respective Ministers, officers, servants, employees, and agents from and against all claims and demands, losses, costs, damages, actions, suit or other proceedings brought or pursued in any manner in respect of any matter caused by the Consultant or arising from this Contract or the Services, or from the goods or services provided or required to be provided by the Consultant, except those resulting from the negligence of any of the Government of Canada's or the Government of Manitoba's Ministers, officers, servants, employees, or agents, as the case may be.

D17.3.2 The Consultant agrees that in no event will Canada or Manitoba, their respective officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- (a) any injury to any person, including, but not limited to, death, economic loss or infringement of rights;
- (b) any damage to or loss or destruction of property of any person; or
- (c) any obligation of any person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Contract or the Work.

D17.4 Records Retention and Audits

D17.4.1 The Consultant shall maintain and preserve accurate and complete records in respect of this Contract and the Services, including all accounting records, financial documents, copies of contracts with other parties and other records relating to this Contract and the Services during the term of the Contract and for at least six (6) years after Total Performance. Those records bearing original signatures or professional seals or stamps must be preserved in paper form; other records may be retained in electronic form.

D17.4.2 In addition to the record keeping and inspection obligations outlined in C7.16 of the General Conditions for Consultant Services, the Consultant shall keep available for inspection and audit at all reasonable times while this Contract is in effect and until at least six (6) years after Total Performance, all records, documents, and contracts referred to in D17.4.1 for inspection, copying and audit by the City of Winnipeg, the Government of Manitoba and/or the Government of Canada and their respective representatives and auditors, and to produce them on demand; to provide reasonable facilities for such inspections, copying and audits, to provide copies of and extracts from such records, documents, or contracts upon request by the City of Winnipeg, the Government of

Manitoba, and/or the Government of Canada and their respective representatives and auditors, and to promptly provide such other information and explanations as may be reasonably requested by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada from time-to-time.

D17.5 Other Obligations

- D17.5.1 The Consultant consents to the City providing a copy of the Contract Documents to the Government of Manitoba and/or the Government of Canada upon request from either entity.
- D17.5.2 If the Lobbyists Registration Act (Manitoba) applies to the Consultant, the Consultant represents and warrants that it has filed a return and is registered and in full compliance with the obligations of that Act, and covenants that it will continue to comply for the duration of this Contract.
- D17.5.3 The Consultant shall comply with all applicable legislation and standards, whether federal, provincial, or municipal, including (without limitation) labour, environmental, and human rights laws, in the course of providing the Services.
- D17.5.4 The Consultant shall properly account for the Services provided under this Contract and payment received in this respect, prepared in accordance with generally accepted accounting principles in effect in Canada, including those principles and standards approved or recommended from time-to-time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, applied on a consistent basis.
- D17.5.5 The Consultant represents and warrants that no current or former public servant or public office holder, to whom the Value and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post Employment, or the Conflict of Interest Act applies, shall derive direct benefit from this Contract, including any employment, payments, or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation.
- D17.5.6 The Consultant represents and warrants that no member of the House of Commons or of the Senate of Canada or of the Legislative Assembly of Manitoba is a shareholder, director or officer of the Consultant or of a Subconsultant, and that no such member is entitled to any benefits arising from this Contract or from a contract with the Consultant or a Subconsultant concerning the Work.

APPENDIX A – SOCIAL PROCUREMENT QUESTIONNAIRE