



REQUEST FOR PROPOSAL ("RFP")

FOR

Tourism Advisory Consultant Services

RFP Number

File 1917

Issue Date: March 24, 2017

(THIS IS NOT A TENDER)

Closing Time

April 18, 2017

3:00 pm

Pacific Time (PT)



TABLE OF CONTENTS

1	DEFINITIONS.....	4
2	INVITATION SUMMARY.....	5
2.1	INTRODUCTION.....	5
2.2	CONTACT INFORMATION.....	5
2.3	CLARIFICATION.....	5
2.4	PROPOSAL DELIVERY.....	5
2.5	LATE PROPOSALS.....	6
2.6	PRE-PROPOSAL MEETING.....	6
2.7	ADDENDA.....	6
2.8	RFP TIMETABLE.....	7
2.9	PROPOSAL CONTENT.....	7
2.10	EVALUATION OF PROPOSALS.....	7
2.11	ACCEPTANCE OR REJECTION.....	8
2.12	CLARIFICATION.....	8
2.13	NEGOTIATION AND SELECTION.....	8
2.14	COMMITMENT.....	8
3	COMPETITION CONDITIONS.....	9
3.1	PROPOSAL ELIGIBILITY.....	9
3.2	AMEND OR REVOKE PROPOSAL.....	9
3.3	ACCURACY OF INFORMATION.....	9
3.4	THE CITY RESERVE RIGHTS.....	9
3.5	CONFLICT OF INTEREST.....	10
3.6	NO LOBBYING.....	10
3.7	PROPONENT COMMUNICATION.....	10
3.8	ILLEGAL OR UNETHICAL CONDUCT.....	10
3.9	COST OF PREPARATION.....	10
3.10	CONSENT TO USE OF INFORMATION.....	10
3.11	AGREEMENT ON INTERNAL TRADE.....	10
3.12	OWNERSHIP OF PROPOSALS.....	11
3.13	REQUEST FOR DEBRIEF.....	11
3.14	LITIGATION.....	11
3.15	WORKER'S COMPENSATION.....	11
3.16	CONTRACT TERMS AND CONDITIONS.....	11



TABLE OF CONTENTS

3.17 BUSINESS LICENSE.....	12
3.18 MINIMUM RATE OF PAY.....	12
3.19 CONTRACTOR IS “PRIME CONTRACTOR”	12
3.20 INSURANCE REQUIREMENTS.....	12
4 SCOPE OF WORK.....	13
4.1 INVITATION.....	13
4.2 OBJECTIVES	13
4.3 BACKGROUND.....	13
4.4 SCOPE.....	15
4.5 DELIVERABLES.....	15
5 EVALUATION CRITERIA	16
6 PROPOSAL CONTENT	16
6.1 COVER LETTER & SIGNATURE.....	16
6.2 PROJECT UNDERSTANDING, METHODOLOGY AND TIMELINES.....	16
6.3 CONSULTANT EXPERIENCE.....	16
6.4 REFERENCES AND INTERVIEWS.....	16
6.5 FINANCIAL PROPOSAL	17
6.6 MANDATORY DOCUMENT.....	17
APPENDIX A – SUBMISSION FORM	
APPENDIX B – PRICE FORM	
APPENDIX C – PROPOSED PURCHASE CONTRACT	

1 DEFINITIONS

The following definitions apply to terms used throughout this document:

- a) City – City of Nanaimo
- b) Closing Time – means the date and time for the closing of this RFP as identified on the front cover, such extended date and time as determined by The City.
- c) Mandatory Requirements are those requirements in this RFP described with a “must”. Failure to provide mandatory information may result in a Proposal being rejected.
- d) Procurement Contact - the individual identified in the Invitation Summary - Contact Information responsible for managing the RFP process through whom all correspondence will flow, including receiving all commercial and technical questions and issuing addenda to this RFP.
- e) Proposal sometimes referred to as Submission - means the Proponent's response to the RFP and includes all the Proponent's attachments and presentation materials.
- f) Proponent - party responding to this RFP.
- g) RFP - Request for Proposal.
- h) Work and Deliverables - means the work described in Section 4 – Scope of Work of this RFP and detailed in the attached documentation.

2 INVITATION SUMMARY

2.1 INTRODUCTION

The City invites detailed Proposals from qualified Consultant firms (“Respondents”) with expertise in tourism planning including destination development, market research, and strategic planning. Consulting services will include conducting required research, coordinating and facilitating the planning process, provide recommendations and creating a tourism planning document suitable for industry and public review and presentation to Council as described in Section 4 – Scope of Work.

The contract terms, conditions and any other support agreements will be specified in any contract resulting from this RFP.

This RFP is not a tender call. No contract is created by the submission of a Proposal.

2.2 CONTACT INFORMATION

It is the Proponent's responsibility to clarify interpretation of any matter the Proponent considers to be unclear before the Closing Time, by contacting:

Procurement Contact:
Purchasing and Stores
Jane Rushton
City of Nanaimo
Ph.: (250)756-5319
Email: purchasinginfo@nanaimo.ca

2.3 CLARIFICATION

Proponents should direct all inquiries for clarification to the Procurement Contact.

The City is not responsible for any misunderstanding on the part of the Proponent to this RFP or its process.

Questions will be deemed to be received once the questions submitted by Proponents in writing have been received by the Procurement Contact noted above. Questions regarding this RFP will be accepted via e-mail, to purchasing@nanaimo.ca, no later than 5 Business Days prior to the Closing Time.

2.4 PROPOSAL DELIVERY

The Closing Time for this RFP is April 18, 2017 at 3:00 pm, Pacific Time.

Proposals must be received by the Purchasing Department by one (1) of the following two methods before the Closing Time:

1. Hard copy delivered by hand/courier to the following “Closing Location” address:
City of Nanaimo

Purchasing Department
2020 Labieux Road
Nanaimo, B.C. V9T6J9

Proposals should be sealed and clearly marked with the RFP number, closing date and time. Proposals may be delivered by hand, courier or mail.

Proponents should submit one (1) hard copy of the Proposal and one (1) electronic copy in either PDF or MS Word format with their submission.

If there are any conflicts or inconsistencies between the hard copies and the electronic copy of the Proposal, the hard copy of the Proposal shall prevail.

OR

2. The City will accept an electronic submission of the RFP which must be received at purchasinginfo@nanaimo.ca by the Closing Time. **Maximum email file size limit is 8MB, or less.**

The Proponent should be aware that the Closing Time is a strict requirement and e-mail transmissions are not always instantaneous. The City of Nanaimo is not responsible for lost, misplaced Proposal or Proposals delivered incorrectly by hand/courier or for failure to receive or the inability to read any submission for any reason including technical issues, data corruption, spam filters, firewalls, job queue, file size limitations or failure for any other reason.

Proposals will not be opened publically.

Proponents have the sole responsibility to allow sufficient time for the delivery of their Proposal by "Closing Time" at the "Closing Location" shown above. The wall clock in the Purchasing Department office is the official time for Submissions delivered by hand/courier and for electronically submitted Proposals when displayed as new email at (purchasinginfo@nanaimo.ca). Late Submissions or Submissions received by facsimile or Submissions received at the incorrect "Closing Location" will not be considered.

2.5 LATE PROPOSALS

Proposals must be submitted at the location and time set out in section 2.4 above. Proposals submitted after the Closing Time, will be rejected.

2.6 PRE-PROPOSAL MEETING

A pre-proposal meeting will not be held for this RFP.

2.7 ADDENDA

The City reserves the right to respond to questions, make clarifications and changes, in its sole discretion, to this RFP at any time prior to the Closing Time through the issuance of addenda. Proponents are cautioned to ensure they have received and reviewed all addenda (if any) prior

to submitting a Proposal. All addenda issued by the City form part of this RFP. Should the City issue any addenda to the RFP, the changes will only be posted on the BC Bids at (www.bcbid.gov.bc.ca) and on the City of Nanaimo site (http://www.nanaimo.ca/bid_opportunities/bid_opportunities.aspx). No other notices will be issued.

2.8 RFP TIMETABLE

Interested parties should obtain the RFP directly from BC Bids to facilitate receiving any RFP updates/amendments issued by the City.

The timetable below shows the anticipated schedule to award this RFP. The dates shown are estimates and the City will strive to meet the activity dates shown; however, the City reserves the right to change the schedule at its sole discretion.

Activity	Date
Issuance of Request for Proposal	March 24, 2017
Close of Questions	April 11, 2017
Closing Time	April 18, 2017
Interviews (if necessary)	Week of May 1, 2017
Estimated Contract Award Date	May 10, 2017

2.9 PROPOSAL CONTENT

Proponents should follow the content requirements defined in section 6 of this RFP. Proposals submitted should be in enough detail to allow the City to determine the Proponent's qualifications and capabilities from the documents received. Every effort should be made to include complete details of the proposed Work.

2.10 EVALUATION OF PROPOSALS

Proposals will be evaluated on a category basis as follows:

Stage 1- Proposal Eligibility

The City will examine all Proposals that meet the eligibility requirements as set out in Section 3.1 – Proposal Eligibility.

Stage 2 – Weighted Evaluation

The City will evaluate the eligible Proposals based on the Evaluation Criteria in Section 5 using a weighted evaluation scoring method. Proposals will be evaluated using a scoring scale of 1-5 with the resulting score then multiplied by the pre-determined weighted evaluation value for each particular criterion. The weighted score for each item will be added together to arrive at an aggregate (total) score for the evaluation and ranking for all submissions. The City will assign scores at the sole discretion of the City.

Pricing will be scored based on a relative pricing formula using the rates set out in the Pricing Form.

Each proponent will receive a percentage of the total possible points allocated to price by dividing that proponent's price for that category into the lowest price in that category.

Stage 3 – Proposal Clarification

The City may at their sole discretion, invite one or more Proponents for an interview, presentation or request further clarification to address any questions or clarifications relating to Proposals. Proponents will be responsible for any costs associated with the preparation for, and attendance at, the interview, to take place at a specified location in the City. An interview can be by a format selected by the City (i.e. in-person, phone, conference call, etc.)

Stage 4 - Re-evaluation and Adjusted Scores

The City may, if necessary, re-evaluate and assign adjusted scores to the previously determined scores of the Proponents invited for an interview based on the new or updated information received.

2.11 ACCEPTANCE OR REJECTION

The City may, in its sole discretion, accept or reject for its consideration any and all Proposals that contain minor and inconsequential irregularity, or where practicable to do so. The City may, as a condition of acceptance of a Proposal, request a Proponent to correct an irregularity with no change in proposed price. The determination of what is or is not a minor and inconsequential irregularity, the determination of whether to accept, waive, or require correction of an irregularity, and the final determination of the validity, will be at the sole discretion of The City.

2.12 CLARIFICATION

The City reserves the right to seek clarification from any Proponent to assist in the evaluation of its Proposal.

2.13 NEGOTIATION AND SELECTION

By submitting a Proposal, a Proponent accepts that a contract may be negotiated upon notification by The City with the Proponent whose Proposal is evaluated as the best value. The City reserves the right to negotiate with any Proponent, or more than one Proponent. If the parties after having negotiated in good faith are unable to conclude a formal agreement, The City and the Proponent will be released without further obligations other than any surviving obligations regarding confidentiality and The City may, at its discretion, contact the Proponent of the next best rated Proposal and attempt to conclude an agreement with it, and so on until an agreement is reached.

The City may at its discretion 1) negotiate with a Proponent to award a contract for all or a portion of the Work 2) cancel this RFP and issue a new RFP with a new scope of work, or 3) cancel this RFP in its entirety.

2.14 COMMITMENT

Proponents are advised that The City makes no commitment under this RFP. Any commitment resulting from this RFP will be made by means of a duly authorized contract issued by The City.

3 COMPETITION CONDITIONS

3.1 PROPOSAL ELIGIBILITY

In order for Proposals to be eligible they **must**:

- a) Be received by The City by the Closing Time, at the address specified in Section 2 - INVITATION SUMMARY, above;
- b) Include a copy of the Submission Form - Appendix A attached signed by an individual authorized to do so on behalf of the Proponent.

PROPOSALS THAT ARE NOT COMPLIANT WITH THESE TWO MANDATORY REQUIREMENTS WILL BE REJECTED.

The City may conduct credit and reference checks as part of the eligibility process, and may request additional financial information from any Proponent, at The City's sole discretion.

3.2 AMEND OR REVOKE PROPOSAL

A Proponent may amend its Proposal prior to the Closing Time by submitting a clear and detailed written notice to the Procurement Contact. A Proponent may revoke its Proposal at any time prior to an agreement being entered into with The City by submitting a clear and detailed written notice to the Procurement Contact.

3.3 ACCURACY OF INFORMATION

The City makes no representation or warranty; either expressed or implied, with respect to the accuracy or completeness of any information contained or referred to in this RFP.

3.4 THE CITY RESERVE RIGHTS

The City reserves the right to:

- a) Waive any irregularity or insufficiency in any Proposal
- b) Accept the Proposal which is deemed most favourable to the interest of The City;
- c) Accept any Proposal in whole or in part;
- d) Seek Proposal clarification with the Proponents to assist in making evaluations;
- e) Negotiate with the selected Proponent;
- f) Approve substitutions for the Goods or personnel for the Work;
- g) Use any and all ideas presented in any Proposal whether amended or not, and selection or rejection of the proposal does not affect this right;
- h) Request re-submission of any or all Proposals;
- i) Reject any or all proposals;
- j) Require complete, certified copies of all required insurance policies at any time and to accept or reject the Proponent's insurer;
- k) Contact references other than, and/or in addition to, those furnished by the Proponent
- l) Modify the terms of the RFP at any time in its sole discretion;
- m) Internally publish the names of Proponents and any summary cost information deemed appropriate by The City.

3.5 CONFLICT OF INTEREST

Proponents must fully disclose, in writing to the Procurement Contact on or before the Closing Time, the circumstances of any possible conflict of interest or what could be perceived as a possible Conflict of Interest if the Proponent were to become a contracting party pursuant to the RFP. The City may reject any Proposals where, in the opinion of The City, the Proponent could be in a Conflict of Interest or could be perceived to be in a possible Conflict of Interest position if the Proponent were to become a contracting party pursuant to the RFP. For the purposes of this Contract, a "Conflict of Interest" includes, but is not limited to, any situation or circumstance where the Proponent's other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the Contract.

3.6 NO LOBBYING

A Proponent or any person associated with the Proponent may not communicate directly or indirectly in relation to this RFP or the evaluation and selection process, in any form of political or other lobbying whatsoever to influence the selection of the successful proponent(s).

3.7 PROPONENT COMMUNICATION

A Proponent may not at any time directly or indirectly communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the Procurement Contact.

3.8 ILLEGAL OR UNETHICAL CONDUCT

Proponents shall not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud or collusion. Proponents shall not engage in any unethical conduct, including lobbying or other inappropriate communications, offering gifts to directors, employees, officers, or representatives of The City, deceitfulness, submitting proposals containing misrepresentations or other misleading or inaccurate information, or any other conduct that compromises, or may be seen to compromise, the competitive process provided for in this RFP.

3.9 COST OF PREPARATION

The Proponent is responsible for all costs of preparing and presenting its Proposal and, if applicable, any negotiation and finalization of any agreement with The City.

3.10 CONSENT TO USE OF INFORMATION

By responding to this RFP, the Proponent consents, and has obtained the written consent from any individuals identified in the Proposal for The City to use the personal information provided in the Proposal to evaluate the Proposal. The successful Proponent shall provide proof of the consent of individuals as described in this paragraph to The City upon request.

3.11 AGREEMENT ON INTERNAL TRADE

Proponents should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade and the New West Partnership Trade Agreement ("NWPTA") may

be subject to those agreements but that the rights and obligations of the parties shall be governed by the specific terms of this RFP. For further reference, please see the Internal Trade Secretariat website at http://www.ait-aci.ca/index_en.htm.

3.12 OWNERSHIP OF PROPOSALS

All Submissions submitted to the City of Nanaimo become the property of the City of Nanaimo and will be held in confidence by the City of Nanaimo. The City of Nanaimo is bound by the Freedom of Information and Protection of Privacy Act (British Columbia) (FOIP) and all documents submitted to the City of Nanaimo will be subject to the provisions of this legislation.

3.13 REQUEST FOR DEBRIEF

At the conclusion of this RFP process, all Proponents will be notified. Upon request, unsuccessful Proponent(s) may request a de-brief regarding their Submission within (30) days of notification. The City will not provide information regarding Proposals from other Proponents.

3.14 LITIGATION

The City may, in its absolute discretion, reject a Statement of Qualifications submitted by a Proponent, if the Proponent, or any officer or director of the Proponent is or has been engaged either directly or indirectly through another corporation in legal action against the City, its elected or appointed officers and employees in relation to:

- i. Any other contract for works or services; or
- ii. Any matter arising from the City's exercise of its powers, duties; or functions under the Local Government Act, Community Charter or another enactment,

within the past five years of the Closing Time of this Request for Proposal.

In determining whether to reject a Submission under this clause, the City will consider whether the litigation is likely to affect the Proponents ability to work with the City, its consultants and representatives and whether the City's experience with the Proponent indicates that the City is likely to incur increased staff and legal costs in the administration of a Contract if it is awarded to the Proponent.

3.15 WORKER'S COMPENSATION

Proponents shall, during the term of the Agreement, maintain WorkSafeBC coverage in order to fully protect both its employees and The City as may be required by law. Proof of coverage (WCB release) and insurance will be required prior to any contract for the Work.

3.16 CONTRACT TERMS AND CONDITIONS

A sample contract is enclosed which will form the basis of any negotiation for the Work. Proponents should clearly indicate in their Proposal any conditions in Appendix C- Proposed Purchase Contract that are not acceptable and provide proposed wording that would be acceptable.

3.17 BUSINESS LICENSE

The successful Proponent will be required to hold a valid City of Nanaimo business license for the duration of the project.

3.18 MINIMUM RATE OF PAY

The Collective Agreement between the City of Nanaimo and Canadian Union of Public Employees, Local 401 says that:

Every contract made by the Employer for construction, re-modeling, repair, or, demolition of any municipal works or for providing any municipal service or function shall be subject to the following condition:

“Minimum rate of pay for work performed under this Contract or under Sub-contract shall be classified in the current Agreement between the City of Nanaimo and Canadian Union of Public Employees, Local 401.”

3.19 CONTRACTOR IS “PRIME CONTRACTOR”

The Contractor to the Contract (if awarded) will be designated and assumes the responsibility as the **Prime Contractor** per WorkSafe BC OH&S Regulations, Section 20.2 **Notice of Project** and 20.3 **Coordination of Multiple-Employer Workplaces**, Subsections (1) and (2). The Proponent should also understand the general duties of the Owner as defined in the Workers’ Compensation Act, Section 119 **General Duties of Owner**. The Proponent should have the necessary qualification and be willing to accept the responsibilities as **Prime Contractor** for this Contract.

Prime Contractor information is included in **Schedule C** Prime Contractor Agreement.

3.20 INSURANCE REQUIREMENTS

Prior to commencement of the Work, the successful Proponent shall, at its own expense, acquire and maintain the insurances specified in Appendix C – Proposed Purchase Contract – Schedule “B”.

If successful, The Proponent must obtain all required insurances and licenses (where applicable) before signing an agreement.

4 SCOPE OF WORK

4.1 INVITATION

The City of Nanaimo is seeking proposals for a qualified consultant to work with an industry-led Tourism Advisory Committee (TAC) to develop a new model that will strengthen collaboration between and integration across all parts of Nanaimo's tourism sector. The successful proponent must have extensive experience in tourism planning including destination development, market research, and strategic planning. They must also have the ability to conduct all required research, coordinate and facilitate the planning process, provide recommendations, and create a tourism planning document suitable for industry and public review and presentation to Council.

4.2 OBJECTIVES

The objective of this request for proposal is to select a qualified consultant who will work with members of the Tourism Advisory Committee to develop a comprehensive model for tourism services in Nanaimo. The model is to include a clear vision and mission as well as defined goals, objectives and priorities that are realistic, achievable and measurable.

4.3 BACKGROUND

The City of Nanaimo is located on Vancouver Island and has an estimated population of over 90,000. Centrally located on the east coast of the Island, 111 km north of Victoria, Nanaimo is the regional service centre for mid and north Vancouver Island.

In the fall of 2016, acting on information contained in the City's Core Services Review, combined with a report prepared by consulting firm CBRE, Nanaimo City Council approved recommendations seeking changes to the delivery of publicly funded tourism services in Nanaimo. The decision was made to separate Tourism Nanaimo (the entity created to administer publicly funded tourism services) from the Nanaimo Economic Development Corporation (NEDC) and strategically align these services with other city supported conference and downtown promotional entities. The intention going forward is to creating a harmonized approach for attracting new visitors to Nanaimo and past visitors back to Nanaimo.

In late November 2016, Council approved a staff recommended three-phase process that maintained operations carried out by Tourism Nanaimo while undertaking a multi-month industry led engagement and visioning exercise to create the desired harmonization. The successful proponent of this RFP will be assisting specifically with Phase One, Section A of this process. (See Table 1)

Table 1 – Three Phase Process

Phase One

- A. **Multi-month engagement and visioning exercise** – work with a comprehensive group of stakeholders with interests in tourism and examine steps taken by other communities who have integrated development, marketing, convention sales and tourism services into a single destination marketing organization. Led by the successful proponent of this RFP and members of the TAC, this multi-month exercise will establish a common vision for Nanaimo’s tourism sector & is this focus of this RFP.
- B. **Establish a Tourism Advisory Committee (TAC)** – The TAC will support the multi-month exercise by recommending objectives and milestones and, in conjunction with a consultant, providing advice to staff and Council. In addition, the TAC will also serve as a central advisory resource for those tourism functions that remain temporarily dispersed while phases one and two are underway. And finally, the TAC will provide advice concerning the operationalization of the vision recommended by the multi-month exercise. (Note: this process is currently underway.)
- C. **Service agreement with Tourism Vancouver Island (TVI)** – The City of Nanaimo and Tourism Vancouver Island have signed a service agreement providing destination marketing and destination development services. The agreement, signed on February 1, 2017, is set to run through March 31, 2018 and is structured to run parallel with the TAC in developing a strategic business plan while operating as Nanaimo’s tourism services provider. (Note: this process is in place)

Phase Two

- A. **Planning and implementation of vision** – Once a vision has been established, via the multi-month exercise, the TAC will focus on providing advice on the development of an implementation plan. Key focus areas include: creating the entity needed to operationalize the recommended vision; developing the associated mandate, governance policies and budget and; working with staff & Council to secure the necessary approvals. This phase of the process is estimated to run from late summer 2017 through to early 2018.

Phase Three

- A. **Start of operations (new entity)** – work on carrying out the recommended vision begins. TAC shifts from recent focus on transformation and implementation to long-term strategic planning.

A request for membership for a Tourism Advisory Committee was announced on March 2, 2017, expressly seeking individuals with experience and knowledge in the tourism industry in Nanaimo. The successful consultant will work closely with members of the TAC on Phase One, Section A of the three-step process to help shape the vision and future of tourism services in Nanaimo.

4.4 SCOPE

The selected consultant and TAC members will work together, along with members of the tourism industry, to envision and create a new model for tourism that will be the driving force behind Nanaimo's tourism sector going forward. This model should include long-range components (e.g. vision, mission, values), medium term aspects (e.g. objectives and priorities) and short term components (e.g. action plans). Proponents are asked to provide detailed information on options for consultation including the approach to consultation, the associated cost, and the time-frame involved. Proponents are also encouraged to recommend the most effective and efficient method of engaging stakeholders in this process. The goal is for this process to be completed and recommendations outlining a model for tourism services going forward to be presented to Council by mid-summer 2017.

4.5 DELIVERABLES

The consultant will be responsible for providing expert advice throughout the project and for the following deliverables (note that proponents are not limited by the deliverables and may wish to expand on them):

- Project Coordination – including regular meetings and status reports to keep the project on schedule and keep identified stakeholders apprised of the process;
- Orientation/Training of Participants to the process and components of tourism service planning
- Community/Stakeholder Input – gathering of information and input, using appropriate methods of communication and engagement;
- Needs Assessment/Environmental Scan – reviewing existing plans and documents, identifying trends and patterns that are applicable, analyzing strengths, weaknesses, opportunities and threats;
- Process and Meeting Facilitation – assisting discussion and decision-making and ensuring that conversations are forward-looking and action oriented;
- Vision Documentation – including creation of a final document for public review and presentation.

5 EVALUATION CRITERIA

Evaluation Criteria and Weighting

Eligible Proposals will be evaluated for criteria in accordance with the following:

Item	Evaluation Criteria	Weight
1	Project Understanding, Methodology, and Timelines	25
2	Consultant Experience with Projects of Similar Size	35
3	References and Interviews	20
4	Financial Proposal	20
	Total Weighting	100

Pricing will be scored based on a relative pricing formula using the rates set out in the Pricing Form.

Each proponent will receive a percentage of the total possible points allocated to price by dividing that proponent's price for that category into the lowest price in that category.

6 PROPOSAL CONTENT

6.1 COVER LETTER & SIGNATURE

The Proposal should include a cover letter summarizing their Proposal and indicate why the City should select your firm. This letter should be signed by a person authorized to legally bind the Respondent to the statements contained in the Respondent's Proposal submission.

6.2 PROJECT UNDERSTANDING, METHODOLOGY AND TIMELINES

Proponents should provide a brief description of the project, the timelines, and all relevant reference contact information.

Proposals must be complete. Proponents should demonstrate in their Proposal that they have a clear understanding of this project. Proponents need to articulate their proposals, intentions and expectations, indicating how they will fulfill the requirements of the RFP and what services they will provide.

6.3 CONSULTANT EXPERIENCE

Proposals should details demonstrating the experience of the consultant with projects of similar size, scope, and complexity. Consultant needs to have demonstrated facilitation skills in successfully working with previous councils or committees.

6.4 REFERENCES AND INTERVIEWS

After an initial review of the proposals, a proponent shortlist may be created at the City's sole discretion and references checked and interviews conducted. Proponents must provide a minimum of three (3) references that demonstrate successful competency with comparable work for similar clients.

6.5 FINANCIAL PROPOSAL

Proposals should include details of all costs to complete the project. Refer to Appendix B – Price Form for a sample cost structure.

Proposals should also include:

- Payment schedule;
- Estimate expenses;
- A schedule of rates for all key personnel, technical staff, and support personnel.

6.6 MANDATORY DOCUMENT

The Submission Form - Appendix A attached must be signed by an individual authorized to do so on behalf of the Proponent and included as part of the proposal.



RFP# 1917

APPENDIX A – SUBMISSION FORM

RFP# 1917

Project Title: **Tourism Advisory Consultant Services**

(This Submission Form “must” be completed and returned with the Proposal)

The Proponent hereby acknowledges that 1) its understands and agrees with the RFP process described in this document, including without limitation that the City makes no commitment under this RFP; and 2) the information included in this Proposal is correct and it has thoroughly reviewed and has complied with the documents making up this Proposal, including all drawings and specifications as may be listed in the Index, and any amendments or addenda thereto:

The Respondent represents to the City that the individual signing this Submission Form on its behalf has proper authority to do so.

<p>CONTACT FOR ADDITIONAL INFORMATION</p> <p>Name:</p> <p>Telephone:</p> <p>Fax:</p> <p>E-Mail:</p>	<p>COMPANY NAME AND COMPLETE ADDRESS</p> <p>GST#:</p>
<p>Date:</p>	<p>Telephone:</p> <p>Fax:</p> <p>E-mail:</p>
<p>Proponent’s Name (please print)</p>	<p>Signature</p>

APPENDIX B – PRICE FORM

Financial Proposal

The Proponent shall provide a pricing for the project tasks and milestones for a total fixed project cost including disbursements and expenses for the project.

Below is a table of minimum cost fields (bolded). The level of detail to be provided and the necessary tasks and resources is to be determined by the Proponent.

Table 1 –Project Costing Format

Project Task and Milestone	Task Cost	Estimated Expenses and Disbursements	Project Total
Project Plan			
Phase 1			
Phase 2			
Phase 3			
Project Total			

The above table is a minimum requirement. Proponents are to develop their own Pricing Form.

Any additional expenses and disbursements must be pre-approved by the City Project Manager.

Proponents should provide a schedule of rates for all key personnel, technical staff, and support personnel that will be utilized on the project, in a chart similar to the following sample.

- Resource hourly rates – by position or skill set.
- Sub-consultant or sub-contractor hourly rate by position or skill set.
- Equipment rates, if applicable.

Table 2 – Sample Resource Costing Format

Resource Name	Hourly/Daily Rate	Over-time Rate
Resource 1		
Resource 2		
Resource 3		
Sub-consultant 1		
Equipment rate		

The above table is a SAMPLE only. Proponents are to develop their own Pricing Form.



APPENDIX C – PROPOSED PURCHASE CONTRACT

CITY OF NANAIMO

Consulting Agreement

for

Project Name

with

Contractor Name

Contract Number: ####

TABLE OF CONTENTS

No.	Heading	Page
1.	Definitions	5
	1.1 General.....	5
	1.2 Meaning of "record".....	5
2.	Services	5
	2.1 Provision of services.....	6
	2.2 Term.....	6
	2.3 Supply of various items.....	6
	2.4 Standard of care.....	6
	2.5 Standards in relation to persons performing Services.....	6
	2.6 Instructions by City.....	6
	2.7 Confirmation of non-written instructions.....	6
	2.8 Effectiveness of non-written instructions.....	6
	2.9 Applicable laws.....	6
3.	Payment	6
	3.1 Fees and expenses.....	6
	3.2 Statements of accounts.....	7
	3.3 Withholding of amounts.....	7
	3.4 Appropriation.....	7
	3.5 Currency.....	7
	3.6 Non-resident income tax.....	7
	3.7 Prohibition against committing money.....	7
	3.8 Refunds of taxes.....	7
4.	Representations and Warranties	8
5.	Privacy, Security and Confidentiality	8
	5.1 Privacy.....	8
	5.2 Security.....	8
	5.3 Confidentiality.....	8
	5.4 Public announcements.....	9
	5.5 Restrictions on promotion.....	9
6.	Material and Intellectual Property	9
	6.1 Access to Material.....	9
	6.2 Ownership and delivery of Material.....	9
	6.3 Matters respecting intellectual property.....	9
	6.4 Rights relating to Incorporated Material.....	9
7.	Records and Reports	10
	7.1 Work reporting.....	10
	7.2 Time and expense records.....	10
8.	Audit	10

9.	Indemnity and Insurance	10
	9.1 Indemnity	10
	9.2 Insurance.....	10
	9.3 Workers compensation	10
	9.4 Personal optional protection	10
	9.5 Evidence of coverage	11
10.	Force Majeure	11
	10.1 Definitions relating to force majeure	11
	10.2 Consequence of Event of Force Majeure	11
	10.3 Duties of Affected Party	11
11.	Default and Termination	11
	11.1 Definitions relating to default and termination	11
	11.2 City’s options on default	12
	11.3 Delay not a waiver.....	12
	11.4 City’s right to terminate other than for default.....	12
	11.5 Payment consequences of termination	12
	11.6 Discharge of liability	13
	11.7 Notice in relation to Events of Default	13
12.	Dispute Resolution	13
	12.1 Dispute resolution process.....	13
	12.2 Location of arbitration or mediation.....	13
	12.3 Costs of mediation or arbitration	13
13.	Miscellaneous	14
	13.1 Delivery of notices.....	14
	13.2 Change of address or fax number	14
	13.3 Assignment.....	14
	13.4 Subcontracting	14
	13.5 Waiver	14
	13.6 Modifications	14
	13.7 Entire agreement.....	14
	13.8 Survival of certain provisions	15
	13.9 Schedules	15
	13.10 Independent contractor	15
	13.11 Personnel not to be employees of City	15
	13.12 Key Personnel	15
	13.13 Pertinent Information.....	15
	13.14 Conflict of interest	15
	13.15 Time.....	15
	13.16 Conflicts among provisions	16
	13.17 Agreement not permit nor fetter	16
	13.18 Remainder not affected by invalidity	16
	13.19 Further assurances.....	16
	13.20 Additional terms.....	16
	13.21 Governing law	16
14.	Interpretation	16
15.	Execution and Delivery of Agreement	17

SCHEDULE A – SERVICES

SCHEDULE B – FEES AND EXPENSES

Contractor Proposal

THIS AGREEMENT is dated for reference the date

BETWEEN:

(the "Contractor")

AND:

City of Nanaimo
455 Wallace Street
Nanaimo, B.C.
V9R 5J6

The City wishes to retain the Contractor to provide the services specified in Schedule A and, in consideration for the remuneration set out in Schedule B, the Contractor has agreed to provide those services, on the terms and conditions set out in this Agreement.

As a result, the City and the Contractor agree as follows:

1 DEFINITIONS

General

1.1 In this Agreement, unless the context otherwise requires:

- (a) "Business Day" means a day, other than a Saturday or Sunday, on which City government offices are open for normal business in British Columbia;
- (b) "Incorporated Material" means any material in existence prior to the start of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor;
- (c) "Material" means the Produced Material and the Received Material;
- (d) "Produced Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are produced by the Contractor or a Subcontractor and includes the Incorporated Material;
- (e) "Received Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are received by the Contractor or a Subcontractor from the City or any other person;
- (f) "Services" means the services described in Schedule A;
- (g) "Term" means the term of the Agreement described in Schedule A subject to that term ending earlier in accordance with this Agreement.

Meaning of "record"

1.2 The definition of "record" in the *Interpretation Act* is incorporated into this Agreement and "records" will bear a corresponding meaning.

2 SERVICES

Provision of services

2.1 The Contractor must provide the Services in accordance with this Agreement.

Term

- 2.2 Regardless of the date of execution or delivery of this Agreement, the Contractor must provide the Services during the Term.

Supply of various items

- 2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Agreement, including the license under section 6.4.

Standard of care

- 2.4 Unless otherwise specified in this Agreement, the Contractor must perform the Services to a standard of care, skill and diligence maintained by persons providing, on a commercial basis, services similar to the Services.

Standards in relation to persons performing Services

- 2.5 The Contractor must ensure that all persons employed or retained to perform the Services are qualified and competent to perform them and are properly trained, instructed and supervised.

Instructions by City

- 2.6 The City may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Services. The Contractor must comply with those instructions but, unless otherwise specified in this Agreement, the Contractor may determine the manner in which the instructions are carried out.

Confirmation of non-written instructions

- 2.7 If the City provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by the City in writing, which request the City must comply with as soon as it is reasonably practicable to do so.

Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws.

3 PAYMENT

Fees and expenses

- 3.1 If the Contractor complies with this Agreement, then the City must pay to the Contractor at the times and on the conditions set out in Schedule B:
- (a) the fees described in that Schedule;

- (b) the expenses, if any, described in that Schedule if they are supported, where applicable, by proper receipts and, in the City's opinion, are necessarily incurred by the Contractor in providing the Services; and
- (c) any applicable taxes payable by the City under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

The City is not obliged to pay to the Contractor more than the "Maximum Amount" specified in Schedule B on account of fees and expenses.

Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Agreement, the Contractor must submit to the City a written statement of account in a form satisfactory to the City upon completion of the Services or at other times described in Schedule B.

Withholding of amounts

- 3.3 Without limiting section 9.1, the City may withhold from any payment due to the Contractor an amount sufficient to indemnify, in whole or in part, the City and its employees and agents against any liens or other third-party claims that have arisen or could arise in connection with the provision of the Services. An amount withheld under this section must be promptly paid by the City to the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of the City.

Appropriation

- 3.4 The City's obligation to pay money to the Contractor is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the City during which payment becomes due.

Currency

- 3.5 Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.

Non-resident income tax

- 3.6 If the Contractor is not a resident in Canada, the Contractor acknowledges that the City may be required by law to withhold income tax from the fees described in Schedule B and then to remit that tax to the Receiver General of Canada on the Contractor's behalf.

Prohibition against committing money

- 3.7 Without limiting section 13.10(a), the Contractor must not in relation to performing the Contractor's obligations under this Agreement commit or purport to commit the City to pay any money except as may be expressly provided for in this Agreement.

Refunds of taxes

- 3.8 The Contractor must:
- (a) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, City or other tax or duty imposed on the Contractor as a result of this Agreement that the City has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement; and

- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the City.

4 REPRESENTATIONS AND WARRANTIES

4.1 As at the date this Agreement is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to the City as follows:

- (a) except to the extent the Contractor has previously disclosed otherwise in writing to the City,
 - (i) all information, statements, documents and reports furnished or submitted by the Contractor to the City in connection with this Agreement (including as part of any competitive process resulting in this Agreement being entered into) are in all material respects true and correct,
 - (ii) the Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements in place and available to enable the Contractor to fully perform the Services, and
 - (iii) the Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Agreement; and
- (b) if the Contractor is not an individual,
 - (i) the Contractor has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Agreement by, or on behalf of, the Contractor, and
 - (ii) this Agreement has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

5 PRIVACY, SECURITY AND CONFIDENTIALITY

Privacy

5.1 The Contractor must comply with the Province of British Columbia's Freedom of Information and Protection of Privacy Act.

Security

5.2 The Contractor must:

- (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration or disposal; and

Confidentiality

5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without the City's prior written consent except:

- (a) as required to perform the Contractor's obligations under this Agreement or to comply with applicable laws;
- (b) if it is information that is generally known to the public other than as result of a breach of this Agreement; or
- (c) if it is information in any Incorporated Material.

Public announcements

- 5.4 Any public announcement relating to this Agreement will be arranged by the City and, if such consultation is reasonably practicable, after consultation with the Contractor.

Restrictions on promotion

- 5.5 The Contractor must not, without the prior written approval of the City, refer for promotional purposes to the City being a customer of the Contractor or the City having entered into this Agreement.

6 MATERIAL AND INTELLECTUAL PROPERTY

Access to Material

- 6.1 If the Contractor receives a request for access to any of the Material from a person other than the City, and this Agreement does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to the City.

Ownership and delivery of Material

- 6.2 The City exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the City immediately upon the City's request.

Matters respecting intellectual property

- 6.3 The City exclusively owns all intellectual property rights, including copyright, in:
- (a) Received Material that the Contractor receives from the City; and
 - (b) Produced Material, other than any Incorporated Material.

Upon the City's request, the Contractor must deliver to the City documents satisfactory to the City that irrevocably waive in the City's favour any moral rights which the Contractor (or employees of the Contractor) or a Subcontractor (or employees of a Subcontractor) may have in the Produced Material and that confirm the vesting in the City of the copyright in the Produced Material, other than any Incorporated Material.

Rights in relation to Incorporated Material

- 6.4 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the City:
- (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, modify and distribute that Incorporated Material; and
 - (b) the right to sublicense to third-parties the right to use, reproduce, modify and distribute that Incorporated Material.

7 RECORDS AND REPORTS

Work reporting

- 7.1 Upon the City's request, the Contractor must fully inform the City of all work done by the Contractor or a Subcontractor in connection with providing the Services.

Time and expense records

- 7.2 If Schedule B provides for the Contractor to be paid fees at a daily or hourly rate or for the Contractor to be paid or reimbursed for expenses, the Contractor must maintain time records and books of account, invoices, receipts and vouchers of expenses in support of those payments, in form and content satisfactory to the City. Unless otherwise specified in this Agreement, the Contractor must retain such documents for a period of not less than seven years after this Agreement ends.

8 AUDIT

- 8.1 In addition to any other rights of inspection the City may have under statute or otherwise, the City may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the City's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by the City of the City's rights under this section.

9 INDEMNITY AND INSURANCE

Indemnity

- 9.1 The Contractor must indemnify and save harmless the City and the City's employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that the City or any of the City's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, including any claim of infringement of third-party intellectual property rights, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors or Subcontractors in connection with this Agreement, excepting always liability arising out of the independent acts or omissions of the City and the City's employees and agents.

Insurance

- 9.2 The Contractor must provide their own insurance to protect their interests as they see fit.

Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

Personal optional protection

- 9.4 The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term at the Contractor's expense if:

- (a) the Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
- (b) such personal optional protection insurance is available for the Contractor from WorkSafeBC or other sources.

Evidence of coverage

9.5 Within 10 Business Days of being requested to do so by the City, the Contractor must provide the City with evidence of the Contractor's compliance with sections 9.3 and 9.4.

10 FORCE MAJEURE

Definitions relating to force majeure

10.1 In this section and sections 10.2 and 10.3:

- (a) "Event of Force Majeure" means one of the following events:
 - (i) a natural disaster, fire, flood, storm, epidemic or power failure,
 - (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy,
 - (iii) a strike (including illegal work stoppage or slowdown) or lockout, or
 - (iv) a freight embargoif the event prevents a party from performing the party's obligations in accordance with this Agreement and is beyond the reasonable control of that party; and
- (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Agreement by an Event of Force Majeure.

Consequence of Event of Force Majeure

10.2 An Affected Party is not liable to the other party for any failure or delay in the performance of the Affected Party's obligations under this Agreement resulting from an Event of Force Majeure and any time periods for the performance of such obligations are automatically extended for the duration of the Event of Force Majeure provided that the Affected Party complies with the requirements of section 10.3.

Duties of Affected Party

10.3 An Affected Party must promptly notify the other party in writing upon the occurrence of the Event of Force Majeure and make all reasonable efforts to prevent, control or limit the effect of the Event of Force Majeure so as to resume compliance with the Affected Party's obligations under this Agreement as soon as possible.

11 DEFAULT AND TERMINATION

Definitions relating to default and termination

11.1 In this section and sections 11.2 to 11.4:

- (a) "Event of Default" means any of the following:
 - (i) an Insolvency Event,

- (ii) the Contractor fails to perform any of the Contractor's obligations under this Agreement, or
 - (iii) any representation or warranty made by the Contractor in this Agreement is untrue or incorrect; and
- (b) "Insolvency Event" means any of the following:
- (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,
 - (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency,
 - (iii) a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor,
 - (iv) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
 - (v) a receiver or receiver-manager is appointed for any of the Contractor's property, or
 - (vi) the Contractor ceases, in the City's reasonable opinion, to carry on business as a going concern.

City's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, the City may, at its option, elect to do any one or more of the following:
- (a) by written notice to the Contractor, require that the Event of Default be remedied within a time period specified in the notice;
 - (b) pursue any remedy or take any other action available to it at law or in equity; or
 - (c) by written notice to the Contractor, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under section 11.2(a).

Delay not a waiver

- 11.3 No failure or delay on the part of the City to exercise its rights in relation to an Event of Default will constitute a waiver by the City of such rights.

City's right to terminate other than for default

- 11.4 In addition to the City's right to terminate this Agreement under section 11.2(c) on the happening of an Event of Default, the City may terminate this Agreement for any reason by giving at least 10 days' written notice of termination to the Contractor.

Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if the City terminates this Agreement under section 11.4:
- (a) the City must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to the City's satisfaction before termination of this Agreement; and

- (b) the Contractor must, within 30 days of such termination, repay to the City any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that the City has notified the Contractor in writing was not completed to the City's satisfaction before termination of this Agreement.

Discharge of liability

- 11.6 The payment by the City of the amount described in section 11.5(a) discharges the City from all liability to make payments to the Contractor under this Agreement.

Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify the City of the particulars of the Event of Default or anticipated Event of Default. A notice under this section as to the occurrence of an Event of Default must also specify the steps the Contractor proposes to take to address, or prevent recurrence of, the Event of Default. A notice under this section as to an anticipated Event of Default must specify the steps the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

12 DISPUTE RESOLUTION

Dispute resolution process

- 12.1 In the event of any dispute between the parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the parties otherwise agree in writing:
 - (a) the parties must initially attempt to resolve the dispute through collaborative negotiation;
 - (b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
 - (c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Arbitration Act*.

Location of arbitration or mediation

- 12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Nanaimo, British Columbia.

Costs of mediation or arbitration

- 12.3 Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the parties must share equally the costs of a mediation or arbitration under section 12.1 other than those costs relating to the production of expert evidence or representation by counsel.

13 MISCELLANEOUS

Delivery of notices

- 13.1 Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows:
- (a) by email to the addressee's email address provided to the City
 - (b) by hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or
 - (c) by prepaid post to the addressee's address specified on the first page of this Agreement, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing.

Change of address or email address

- 13.2 Either party may from time to time give notice to the other party of a substitute address or email address, which from the date such notice is given, will supersede for purposes of section 13.1 any previous address or fax number specified for the party giving the notice.

Assignment

- 13.3 The Contractor must not assign any of the Contractor's rights under this Agreement without the City's prior written consent.

Subcontracting

- 13.4 The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the City's prior written consent. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Agreement. The Contractor must ensure that:
- (a) any person retained by the Contractor to perform obligations under this Agreement; and
 - (b) any person retained by a person described in paragraph (a) to perform those obligations fully complies with this Agreement in performing the subcontracted obligations.

Waiver

- 13.5 A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party and is not a waiver of any other term or breach.

Modifications

- 13.6 No modification of this Agreement is effective unless it is in writing and signed by, or on behalf of, the parties.

Entire agreement

- 13.7 This Agreement (including any modification of it) constitutes the entire agreement between the parties as to performance of the Services.

Survival of certain provisions

- 13.8 Sections 2.9, 3.1 to 3.4, 3.7, 3.8, 5.1 to 5.5, 6.1 to 6.4, 7.1, 7.2, 8.1, 9.1, 9.2, 9.5, 10.1 to 10.3, 11.2, 11.3, 11.5, 11.6, 12.1 to 12.3, 13.1, 13.2, 13.8, and 13.10, any accrued but unpaid payment obligations, and any other sections of this Agreement (including schedules) which, by their terms or nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely, even after this Agreement ends.

Schedules

- 13.9 The schedules to this Agreement (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Agreement.

Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Agreement, the Contractor is an independent contractor and not:
- (a) an employee or partner of the City; or
 - (b) an agent of the City except as may be expressly provided for in this Agreement.

The Contractor must not act or purport to act contrary to this section.

Personnel not to be employees of City

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Services being considered employees of the City.

Key Personnel

- 13.12 If one or more individuals are specified as "Key Personnel" of the Contractor on Schedule A, the Contractor must cause those individuals to perform the Services on the Contractor's behalf, unless the City otherwise approves in writing, which approval must not be unreasonably withheld.

Pertinent information

- 13.13 The City must make available to the Contractor all information in the City's possession which the City considers pertinent to the performance of the Services.

Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in the City's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to the City under this Agreement.

Time

- 13.15 Time is of the essence in this Agreement and, without limitation, will remain of the essence after any modification or extension of this Agreement, whether or not expressly restated in the document effecting the modification or extension.

Conflicts among provisions

13.16 Conflicts among provisions of this Agreement will be resolved as follows:

- (a) a provision in the body of this Agreement will prevail over any conflicting provision in, attached to or incorporated by reference into a schedule, unless that conflicting provision expressly states otherwise; and
- (b) a provision in a schedule will prevail over any conflicting provision in a document attached to or incorporated by reference into a schedule, unless the schedule expressly states otherwise.

Agreement not permit nor fetter

13.17 This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor may be required to obtain from the City or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the City or its agencies of any statutory, prerogative, executive or legislative power or duty.

Remainder not affected by invalidity

13.18 If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.

Further assurances

13.19 Each party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.

Additional terms

13.20 Any additional terms set out in writing and attached herein apply to this Agreement.

Governing law

13.21 This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

14 INTERPRETATION

14.1 In this Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement;
- (c) the Contractor and the City are referred to as “the parties” and each of them as a “party”;
- (d) “attached” means attached to this Agreement when used in relation to a schedule;
- (e) unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;

- (f) the headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- (g) "person" includes an individual, partnership, corporation or legal entity of any nature; and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.

15 EXECUTION AND DELIVERY OF AGREEMENT

15.1 This Agreement may be entered into by a separate copy of this Agreement being executed by, or on behalf of, each party and that executed copy being delivered to the other party by a method provided for in section 13.1 or any other method agreed to by the parties.

The parties have executed this Agreement as follows:

<p>SIGNED on the ____ day of _____, 2017 by the Contractor (or, if not an individual, on its behalf by its authorized signatory or signatories):</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Print Name</p> <p>_____</p> <p>Print Title</p>	<p>SIGNED on the ____ day of _____, 2017 on behalf of the City by its duly authorized representative:</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Print Name</p> <p>_____</p> <p>Print Title</p>
--	---

Schedule A – Services

PART 1. TERM:

The term of this Agreement commences on April 22, 2017 and ends on April 21, 2020 unless terminated by either party in writing prior to the end date.

When mutually agreeable between the City and the Contractor, this agreement may be renewed under the same terms and conditions for a period not to exceed one (1) additional year, and said option to renew this Agreement for a one-year period shall be in effect for each year thereafter for a total period not to exceed three (3) additional years.

Services commence upon notification to proceed from the City of Nanaimo designated Project Manager.

PART 2. SERVICES:

As per the Contractor's proposal and subsequent agreements.

PART 3. KEY PERSONNEL:

The Key Personnel of the Contractor are as follows:

- (a) List Project Team Members

City of Nanaimo designate is: City Project Manager

Schedule B – Fees and Expenses

1. MAXIMUM AMOUNT PAYABLE:

Maximum Amount: \$\$\$ Canadian Dollars is the maximum amount which the City is obliged to pay to the Contractor for fees and expenses under this Agreement exclusive of any applicable taxes.

2. FEES:

Consultant Fees \$\$\$ (Value of Consultant fees only)

3. EXPENSES:

Estimated travel and expenses approx. \$\$\$

All expenses must be pre-approved by the City's project manager.

4. STATEMENTS OF ACCOUNT:

Invoicing:

In order to obtain payment of any fees under this Agreement the Contractor must deliver to the City on a monthly basis, a written statement of account in a form satisfactory to the City containing:

- (a) services rendered from and including the 1st day of a month to and including the last day of that month;
- (b) the Contractor's legal name and address;
- (c) the date of the statement, and the Billing Period to which the statement pertains;
- (d) the Contractor's calculation of all fees claimed for that Billing Period, including a declaration by the Contractor of all hours worked during the Billing Period.
- (e) the City of Nanaimo Purchase Order Number.
- (f) the Contractor's calculation of any applicable taxes payable by the City in relation to the Services for the Billing Period;
- (g) any other billing information reasonably requested by the City.

5. PAYMENTS DUE:

Payments Due: Within 30 days of the City's receipt of the Contractor's written statement of account delivered in accordance with this Schedule, the City must pay the Contractor the fees (plus all applicable taxes) claimed in the statement if they are in accordance with this Schedule.

6. INSURANCE

GENERAL LIABILITY INSURANCE

1. The Consultant shall obtain and maintain for the duration of the Services, at its own cost, the

following insurance, on terms and from insurers satisfactory to the Client:

- a) Comprehensive General Liability coverage, covering premises and operations liability;
 - b) Consultant's Contingency Liability coverage, covering operations of Sub-Consultants;
 - c) Completed Operations Liability coverage;
 - d) Contractual Liability coverage; and
 - e) Owned and Non-owned Automobile Liability Insurance coverage.
2. The limits of coverage shall not be less than the following:
- (a) Bodily Injury Liability - \$2,000,000.00 each occurrence; \$2,000,000.00 aggregate products and/or completed operations;
 - b) Property Damage Liability - \$2,000,000.00 each occurrence; \$2,000,000.00 aggregate products and/or completed operations; and
 - c) Owned & Non-owned Automobile - \$2,000,000.00 any one accident.
3. A Cross Liability clause shall be made part of the Comprehensive General Liability Insurance.
4. The City of Nanaimo should be named as additionally insured.
5. Each policy of insurance required under this agreement shall be maintained during the continuance of this agreement and shall not be capable of cancellation unless 30 days' notice is first given to the City.
6. The successful consultant must ensure that every sub-consultant provides and maintains insurance substantially in accordance with the requirements of this agreement. The successful consultant shall be as fully responsible to the City for acts and omissions of sub-consultants and of persons employed directly or indirectly by them as for acts and omissions of persons directly employed by the consultant.

Add insurance requirement as applicable to the project.

7. **BUSINESS LICENSE**

Contractors performing work on City property must acquire and maintain a City of Nanaimo Business License for the duration of this agreement.

8. **SPECIAL CONDITIONS** (as applicable)