



REQUEST FOR PROPOSALS

CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION

RFP No. PS20170285

Issue Date: March 15th, 2017

Issued by: City of Vancouver (the "City")

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CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
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CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
PART A - INSTRUCTIONS AND INFORMATION

PART A
INSTRUCTIONS AND INFORMATION

1.0 INSTRUCTIONS

- 1.1 The City is interested in selecting an entity (each, a “Proponent”) that submits a proposal (each, a “Proposal”) with the capability and experience to efficiently and cost-effectively meet the requirements described in this RFP. The City expects to select a Proponent to enter into contract negotiations. The term of the agreement is expected to be completed by the end of September, 2017.

However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.

- 1.2 Proponents should submit their proposals on or before 3:00pm on the 4th day of April, 2017 (the “Closing Time”) with attention to the person identified below (the “Contact Person”) by email with the Proponent’s name and the RFP title and number in the “subject” line. All enquiries regarding the RFP must be addressed to five (5) business days prior to the Closing Time to the following Contact Person.

Wen Shi
wen.shi@vancouver.ca

- 1.3 To be considered by the City, a Proposal must be submitted in the form set out in Appendix 1 (the “Proposal Form”), completed and duly executed by the relevant Proponent.
- 1.4 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time. Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 1.5 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City’s sole discretion.

2.0 CHANGES TO THE RFP AND FURTHER INFORMATION

- 2.1 The City may amend the RFP or make additions to it at any time. It is the sole responsibility of Proponents to check the City’s website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.

3.0 EVALUATION OF PROPOSALS

- 3.1 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated to determine overall best value to the City. The City expects to evaluate: (i) financial terms; (ii) Proponents’ skills, knowledge, reputations and previous experience(s), including experience(s) with the City (if any); (iii) Proponents’ approach to meeting the City’s requirements including project timelines; and (iv) environmental or social sustainability impacts.

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PART A - INSTRUCTIONS AND INFORMATION

Evaluation Criteria	Evaluation Weighting
Technical	65%
Financial	30%
Sustainability	5%
Total	100%

4.0 CITY'S DISCRETION

4.1 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a Proposal; (h) split the Requirements between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the City may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

5.0 LEGAL TERMS AND CONDITIONS

5.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in Appendix 4. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City. EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 4: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE CITY TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE CITY.

POTENTIAL PROPONENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING A PROPOSAL.

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PART B - CITY REQUIREMENTS

PART B
CITY REQUIREMENTS

1.0 INTRODUCTION

The purpose of the project is to obtain a consultant as an evaluator to understand the impact of the Healthy City Strategy development and early implementation process.

The Healthy City Strategy (HCS) is a long-term, overarching framework for social sustainability in the City of Vancouver. It articulates a vision, goals and targets to 2025, as well as indicators to monitor and understand how health and well-being is changing over time. The equity-focused vision of *A Healthy City for All* guides this work over the long-term, while the *2015-2018 Action Plan* focuses investments and efforts on prioritized areas of need.

- *A Healthy City for All (2014-2025 Phase I)*
(http://council.vancouver.ca/20141029/documents/ptec1_appendix_a_final.pdf)
- *A Healthy City for All (2015-2018 Phase II) - Healthy City Strategy - Four Year Action Plan*
(<http://vancouver.ca/files/cov/Healthy-City-Strategy-Phase-2-Action-Plan-2015-2018.pdf>)

As part of the commitment to social innovation in this process, the City wants to assess the effectiveness of both what we are accomplishing through the HCS, but also how we are accomplishing it - including partnerships, collaborations, and processes.

2.0 BACKGROUND

To achieve the kind of societal health impact envisioned by the HCS, interventions must be able to be scaled up and sustained. To achieve sustained implementation, several elements are necessary:

- a) community context (such as data, political support, funding and supportive policies);
- b) characteristics of the organization/group involved (such as skills and attitudes); and
- c) innovation characteristics (such as flexibility and compatibility).

The HCS is not just about achieving a set of concrete targets; it is intended to be a “lens” to mobilize all members of the community to help achieve change, through new partnerships and new ways of working together. One key principle of the HCS is that “health and well-being is everyone’s business” - specifically: *The health and well-being of Vancouver must involve the broader public, private and civil sectors, and all residents, including meaningful involvement of those most affected.* This is reflected in other phrases associated with the strategy: “we are all in this together”; “a healthy city by all”; and similar. The question is how to evaluate this involvement and enhance it into the future.

The HCS’s thirteenth goal of Collaborative Leadership, which supplements the 12 substantive goals for health and well-being, includes:

- a) a target to implement 90% of the actions set out in the HCS Action Plan;
- b) indicators to measure:
 - participation in the Healthy City for All Leadership Table;
 - the status of action implementation; and
 - an assessment of collaboration based on a framework developed by the Wilder Foundation in the United States.

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PART B - CITY REQUIREMENTS

These targets and indicators will be operationalized and reported in 2017 and provide partial information to understand collaboration and integration. However, they do not provide sufficient information to evaluate the success of the HCS's collaborations, including its reach across City departments and partner organizations, or the mechanisms that exist to deliver the Strategy. This is the gap that this evaluation project should fill.

3.0 PROJECT GOALS

Evaluating the HCS requires looking beyond the *outcomes* (as measured by the Council-approved targets and indicators), and focusing on the *processes* of the strategy. It will assess implementation and look at the factors that facilitate or constrain the implementation and scale up of the HCS vision.

There are three key mechanisms for collaboration that have been developed:

- a) a Memorandum of Understanding between the City of Vancouver and Vancouver Coastal Health to advance collaboration in key focus areas, which will be provided to the successful Proponent;
- b) an integrated implementation team of City departments and external agencies working on delivering key actions; and
- c) the Healthy City for All Leadership Table, which consists of 35 leaders from the public, private and non-profit sectors whose networks and resources expand the reach of the Strategy's vision beyond the City government.

4.0 WORK SCOPE

Please note the City's estimated total level of effort for the project is approximately 200 hours. However this is the City's estimate of the required time to undertake the work for all phases of the scope and should not be seen as a maximum time. The City expects the Proponent to provide its own estimates of time requirements based on its experience and expertise.

The evaluation will be multi-dimensional, and may include behavioural indicators to understand how the HCS has been put into practice in different organizations and departments; and perceptual indicators to understand how the HCS is understood and engaged with by the community.

The evaluation is encouraged to use mixed research and analysis methods, potentially including:

- a) content analysis of policy documents generated by the City and partners and their relationship to the HCS;
- b) focus groups or interviews with partners, particularly members of the Healthy City for All Leadership Table, Healthy City Implementation Team, VCH MoU Steering Committee members and City of Vancouver senior management; the proposals should outline the proposed approaches and the details plans (for examples, the number of focus groups / interview meetings required);
- c) sectoral analysis of health and well-being stakeholders in Vancouver;

Evaluation Framework

The key guiding questions for the successful Proponents are, but not limited to:

- a) How have partners and stakeholders aligned and integrated their work with the HCS as a social sustainability plan for Vancouver?

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PART B - CITY REQUIREMENTS

- b) What have some of the key successes and challenges been in the first phase of the HCS and how can these be enhanced or overcome moving forward?
- c) What factors are required to sustain and enhance innovation during implementation of the HCS through to 2025?
- d) Have investments been made in strategic upstream opportunities?
- e) To what extent has the HCS impacted activities, actions and behaviours of partners and stakeholders?

Proposals are encouraged to explain how the different methods they propose will be integrated, and to provide concrete examples of how their evaluation will be actionable as the HCS continues to be implemented.

5.0 DELIVERABLES

- a) Approved workplan
- b) Engagement plan, incorporating at minimum the integration of Healthy City for All Leadership Table; HCS Integrated Implementation Team, and VCH MOU Steering Committee
- c) Draft evaluation report
- d) Final evaluation report

6.0 PROPONENTS' REQUIREMENTS

The successful Proponent is expected to possess the following qualifications:

- a) demonstrated expertise and experience in social sustainability, health and well-being;
- b) familiarity with social, community and health service networks in Vancouver;
- c) experience conducting and reporting on policy evaluation.

7.0 CITY PROVIDED

The successful Proponent will work independently and be responsible to achieve contract deliverables, but there will be close and ongoing collaboration with City staff throughout the evaluation process. City staff can commit to making relevant City of Vancouver data and materials available to the evaluator, and facilitating connections with partners and access to Healthy City participants. While exact data sources and documents produced by external partners are not currently identified or confirmed, Leadership Table members are aware of the evaluation process, and the Leadership Table Terms of Reference includes a commitment to collaboration and sharing.

At minimum, the City will provide:

- Relevant Council reports
- Leadership Table meeting minutes
- Healthy City Leadership Table Terms of Reference
- MoU with Vancouver Coastal Health
- Healthy City Strategy Briefing Notes
- Healthy City Strategy Presentations
- Workplans
- Meeting minutes

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PART B - CITY REQUIREMENTS

8.0 PROJECT GOVERNANCE

The Project will be managed by the lead Social Planner on the HCS from the Social Policy & Projects Division. The successful Proponent will meet regularly with the Project Manager throughout the process as identified in the finalized Work Plan. The successful Proponent will work with the Project Manager to plan meetings (e.g. setting agenda and presentations).

9.0 PROJECT SCHEDULE

The successful Proponent will work closely with City staff to develop and deliver the components of their evaluation. The following timeline is anticipated, though it will be developed in more detail with the successful Proponent.

The Proponent's proposal shall indicate whether they can meet the following timeline. If the timeline below is not achievable, the proponent must clearly state this in their RFP submission and provide an alternate schedule for consideration.

Description	Target Date
Project Kick off Meeting	Late April
Finalize work plan with successful Proponent	Early May 2017
Engagement plan	Mid May 2017
Conduct evaluation	June - July 2017
First draft of report	Sept 30 2017
Final report	Oct 31 2017

10.0 ATTACHMENTS:

- a) Wilder Foundation Collaboration Assessment
<http://wilderresearch.org/tools/cfi/index.php>

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APPENDIX 1 - PROPOSAL FORM

APPENDIX 1
PROPOSAL FORM

RFP No. PS20170285, CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
(the "RFP")

Proponent's Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____ Fax: _____

E-mail: _____

The Proponent, having carefully examined and read the RFP, including all amendments thereto, if any, and all other related information published on the City's website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 4 to the RFP.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

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APPENDIX 1 - PROPOSAL FORM

Should more space be required for the following sections, the Proponent may use the same table formats and attach separately to the Proposal Form ensuring that such additional pages correctly reference each corresponding section of this form.

Executive Summary

Provide a brief executive summary of your Proposal.

Approach to Meeting Requirements

Describe your proposed approach to providing the required services.

Key Personnel

Identify and provide professional biographical information for the key personnel that would perform the required services.

Subcontractors

List all of the subcontractors that the Proponent proposes to use in carrying out the required services and described the scope of subcontracted work (or write "None" if no subcontractors are proposed).

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APPENDIX 1 - PROPOSAL FORM

References	
Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Summary	
Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Summary	
Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Summary	

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APPENDIX 1 - PROPOSAL FORM

Project Challenges

Provide details as to what the Proponents perceive to be the special challenges or considerations to successful completion of the project as described, as well as their strategy to overcome these challenges.

Innovation and Alternate Approaches

Notwithstanding any other provision hereof, the City welcomes Proposals respecting innovative or novel approaches to the City's objectives and requirements and may consider value-creating Proposals that derogate from the Requirements. Proponents should articulate any pricing impact of the alternative solution(s) provided.

Leadership and Sustainability Questionnaires

Complete the questionnaires attached as Appendices 2 and 3.

Pricing

Complete the below pricing table. All prices are to be quoted in in Canadian currency and exclusive of GST calculated upon such prices, but inclusive of all other costs.

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APPENDIX 1 - PROPOSAL FORM

Table 1 - Project Fees

Work Task/Phase/Deliverable	Team Members	Team Member Activity Role	Estimated Hours	Fees
Approved Work Plan				\$
Engagement Plan (including implementation)				\$
Draft Evaluation Report				\$
Final Evaluation Report				\$
Estimated Disbursements Please list long distance travel fees as a separately item, if any				\$
Total Excluding GST				\$

Table 2 - Key Personnel's Hourly Rate

Team Members	Activity/Role	Regular Hourly Rate
		\$
		\$
		\$

Declaration of Supplier Code of Conduct

The City of Vancouver expects each supplier of goods and services to the City to comply with the supplier performance standards set out in the City's Supplier Code of Conduct ("SCC") <http://vancouver.ca/policy_pdf/AF01401P1.pdf>, which defines minimum labour and environmental standards for City suppliers and their subcontractors. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration.

As an authorized signatory of _____ (*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, _____ (*vendor name*) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted below (include all violations/convictions that have occurred in the past three years as well as plans for corrective action). I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of _____ (*vendor name*).

Signature: _____

Name and Title: _____

Exceptions to Declaration:

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APPENDIX 1 - PROPOSAL FORM

Conflicts, Collusion, Lobbying

See Article 9 of Appendix 4 for instructions.

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APPENDIX 2 - VENDOR LEADERSHIP QUESTIONNAIRE

APPENDIX 2
VENDOR LEADERSHIP QUESTIONNAIRE

As part of the City's Corporate Procurement Policy and related Supplier Code of Conduct, all City vendors must meet minimum requirements related to ethical, social and environmental standards.

Beyond these basic requirements, the City would like to recognize vendors that are demonstrating leadership and innovation in sustainability. In order to be able to do so, the City requires that Proponents answer the following questions. The answers provided will be evaluated as part of the Proposal evaluation process for this RFP.

Please keep in mind that these questions relate to your company's internal operations and overall sustainability leadership.

For all questions where the answer is 'Yes' and additional information is requested, if this information is not included in the Proposal, the answer may not be evaluated.

For all questions where there is a word limit, responses are to be kept within this word limit. Information in excess of the word limit may not be evaluated.

Questionnaire structure:

Section 1: Environmental Impact	Reducing greenhouse gas (GHG) emissions Reducing waste Sustainable purchasing
Section 2: Social Impact	Workplace development programs Supporting social enterprises Additional social sustainability initiatives
Section 3: Definitions	Definitions for key terms used in this Annex.

SECTION 1: ENVIRONMENTAL IMPACT

This section of the leadership questionnaire addresses the following:

- *reducing greenhouse gas (GHG) emissions*
- *reducing waste*
- *sustainable purchasing*

1. Does your company own buildings in Metro Vancouver?

Yes No

If no, skip to question 2.

If yes, describe efforts in the past three (3) years to improve the energy efficiency of owned buildings owned and/or rented space in Metro Vancouver with respect to the elements listed below. Please limit answer to 400 words or less.

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APPENDIX 2 - VENDOR LEADERSHIP QUESTIONNAIRE

- a. Equipment and lighting upgrades (e.g., HVAC, water heaters, LED lighting)
- b. Building envelope improvements (e.g., insulation, windows)
- c. Staff conservation and engagement programs (e.g., turning off lights and computers, etc.)

2. Does your company own or lease fleet vehicles and/or heavy off-road equipment to be operated in Metro Vancouver?

- Yes No

If no, skip to question 3.

If yes, describe actions in the past three (3) years to reduce the GHG emissions of vehicles and heavy equipment operated in Metro Vancouver. (Actions could include: purchase of low emissions vehicles, use of alternative fuels, deployment of telematics software, driver training programs, etc.). **Please limit answer to 250 words or less.**

3. Describe any other initiatives undertaken past three (3) years that have significantly reduced the GHG emissions of your operations. **Please limit answer to 250 words or less.**

4. Does your company have an office or operations recycling program in place?

- Yes No

If yes, which materials does your company recycle -- **check only those that apply:**

- office paper
- plastic and glass containers
- soft plastic
- food waste/compostables
- batteries
- printer or toner cartridges
- Styrofoam
- IT equipment / electronics / mobile devices
- clean wood (e.g., pallets)
- metals

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APPENDIX 2 - VENDOR LEADERSHIP QUESTIONNAIRE

5. Describe any other initiatives undertaken in the past three (3) years that have significantly reduced waste from your operations. Please limit answer to 250 words or less.

6. Indicate which environmentally preferable and/or sustainable goods or services your company currently purchases - check only those that apply:

- Sustainable food items (e.g., Fairtrade coffee; organic produce; OceanWise seafood)
- Copy paper (e.g., 100 per cent post-consumer waste; Forest Stewardship Council certified; tree free)
- Janitorial supplies (e.g., ECOLOGO or Green Seal certified)
- IT equipment (e.g., EPEAT Gold, EnergyStar qualified)
- Office products (e.g., ECOLOGO; recycled; non-toxic)
- Printing services (e.g., Forest Stewardship Council certified paper and printer)
- Promotional / marketing items (e.g., fair labour practices; reusable; recyclable)
- Courier services (e.g., use energy efficient, low carbon or alternative fuel vehicles)
- Catering services (e.g., serve sustainable food; employ social enterprises; use reusable serving ware)
- Landscaping services (e.g., use energy efficient equipment; employ social enterprises)
- Other: (list)

SECTION 2: SOCIAL IMPACT

This section of the leadership questionnaire addresses the following elements:

- *Workplace development programs*
- *Supporting social enterprises*
- *Other social sustainability initiatives*

1. Does your company employ and/or provide training opportunities for *person(s) with barriers to employment* (e.g., people with addictions, disabilities, mental health issues; people who are newcomers or refugees, etc.) that go beyond the hiring practices required by law? See definition of *person with barriers to employment* in Section 3 below.

- Yes No

If yes, describe the program including the name of non-profit or educational institution or government agency that you work with to identify potential trainees or employees; and the number of employees/trainees that work in your company.

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APPENDIX 2 - VENDOR LEADERSHIP QUESTIONNAIRE

2. Does your company conduct business with, or support in other ways, one or more *social enterprises* (as defined in Section 3 below)?

Yes No

If yes, name the social enterprise(s) and describe the nature of the business conducted and/or support provided.

3. Is your company structure either of the following:

a. Social enterprise (as defined in Section 3 below).

Yes No

If yes, state the name of the non-profit or co-operative (including society and/or charitable number):

b. Community Contribution Company (C3 or CCC, as defined in Section 3 below)

Yes No

4. Describe any additional social sustainability initiatives that demonstrate your company's commitment to the health and well-being of local communities. **Please limit answers to 250 words or less.**

SECTION 3: DEFINITIONS

Social Enterprise:

"Social enterprises are businesses owned by non-profit organizations, that are directly involved in the production and/or selling of goods and services for the [combined] purpose of generating income and achieving social, cultural, and/or environmental aims (Social Enterprise Council of Canada)." See www.socialenterprisecanada.ca.

In addition to having the aforesaid combined purpose, to qualify as a "Social Enterprise" for purposes hereof, an entity must:

- be a business operated by a registered non-profit or community services co-operative;

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APPENDIX 2 - VENDOR LEADERSHIP QUESTIONNAIRE

- have a product or service that it sells to customers;
- have a defined social and/or environmental mandate.

Person with Barriers to Employment:

A “person with barriers to employment” is someone who faces one or more circumstances that can lead to underemployment or unemployment. There are a wide range of circumstances that can create barriers to employment including but not limited to: addictions, disabilities, mental health issues, and being a newcomer or refugee. For the purposes hereof, to qualify as a person with barriers to employment, the employee or trainee must be participating in a recognized, pre-approved employment program for person(s) with barriers to employment run by a non-profit organization or educational institution or government agency.

Community Contribution Company (C3):

“Community Contribution Company” means a corporation formed under the laws of British Columbia that includes in its articles the following statement:

This company is a community contribution company, and, as such, has purposes beneficial to society. This company is restricted, in accordance with Part 2.2 of the *Business Corporations Act*, in its ability to pay dividends and to distribute its assets on dissolution or otherwise.

Or, a company incorporated under another jurisdiction that includes in its articles substantively similar restrictions related to dividends and distribution of assets.

Refer to www.fin.gov.bc.ca/prs/ccc for more information.

APPENDIX 3
SUSTAINABILITY REQUIREMENTS QUESTIONNAIRE

DELIBERATELY OMITTED

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APPENDIX 4 - LEGAL TERMS AND CONDITIONS OF RFP

APPENDIX 4
LEGAL TERMS AND CONDITIONS OF RFP

1. APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 4 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent, or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2. DEFINITIONS

In this Appendix 4, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent's selection by the City in the City's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 4), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means Appendix 4 of the RFP, as completed and executed by the Proponent.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20170285, as amended from time to time and including all addenda.

3. NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 4 (except only Sections 7, 8.2 and 10 of this Appendix 4, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City's sole discretion.

4. NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent

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APPENDIX 4 - LEGAL TERMS AND CONDITIONS OF RFP

hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

5. EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

5.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the City is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 4, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

5.4 Acceptance or Rejection of Proposals

The City has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the City; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

6. PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 4, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

- (a) any alleged (or judicially determined) breach by the City or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process,

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- (c) the Proponent preparing and submitting the Proposal;
- (d) the City accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the City: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the City enters any agreement respecting the subject matter of the RFP.

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 4, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) breach by the City or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 4), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

7. DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 4, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;
- (b) Section 6 of this Appendix 4 will: (i) bind the City, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

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8. PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

- (a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.
- (b) The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal to the Proponent.

8.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the City's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Vancouver City Council about the RFP, the City will treat the Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

8.3 All City Information Confidential

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

9. NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in the section titled "Conflicts; Collusion; Lobbying" in the Proposal Form.
- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City, except as set out, in all material detail, in the section titled "Conflicts; Collusion; Lobbying" in the Proposal Form.

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APPENDIX 4 - LEGAL TERMS AND CONDITIONS OF RFP

9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the City and the Proponent's or its subcontractors' duties to such third party, except as set out, in all material detail, in the section titled "Conflicts; Collusion; Lobbying" in the Proposal Form.

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

- (a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in the section titled "Conflicts, Collusion, Lobbying" in the Proposal Form.

9.4 Declaration as to Lobbying

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case as set out, in all material detail, in the section titled "Conflicts, Collusion, Lobbying" in the Proposal Form.

10. GENERAL

- (a) All of the terms of this Appendix 4 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.
- (b) The legal invalidity or unenforceability of any provision of this Appendix 4 will not affect the validity or enforceability of any other provision of this Appendix 4, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.



PROFESSIONAL SERVICES AGREEMENT

CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION

Agreement No. **PS20170285**

PART A - AGREEMENT DETAILS

BETWEEN:

CITY OF VANCOUVER
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

(the "City")

OF THE FIRST PART

AND:

<☒ NAME OF CONSULTANT>
<☒ [address of Consultant]>

(the "Consultant")

OF THE SECOND PART

BACKGROUND:

- A. The City requires the professional services described below, and desires to engage the Consultant to perform the services.
- B. The Consultant has agreed to perform the services in accordance with the terms and conditions contained in this Agreement.

1.0 PROJECT MANAGERS

1.1 The City's Project Manager for this Agreement is as follows:

<☒ Insert name, title, address, e-mail and telephone.>

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APPENDIX 5 - FORM OF AGREEMENT

1.2 The Consultant’s Project Manager for this Agreement is as follows:

<Insert name, title, address, e-mail and telephone.>

2.0 SERVICES

2.1 The “Services” will consist of the services described in the following documents (and those subsequently included upon the request or instruction of the City’s Project Manager pursuant to Part B, Section 3.0 - *Changes to Scope of Service*, if any):

- (a) < >;
- (b) < >; and
- (c) < >.

2.2 All of the foregoing documents are now deemed to be attached to and form an integral part of this Agreement whether or not actually attached to this Agreement. In the event of any conflict or inconsistency, the terms of Part B - *Professional Services Terms and Conditions* and Part C - *Defined Terms* will be given priority, followed by the terms off this Part A - *Agreement Details*, followed by the above-noted documents, in the order set forth above.

3.0 DELIVERABLES/AGREEMENT PRICE

3.1 The following Table 1 describes each Deliverable and sets out the maximum fees and expenses for each Deliverable and is to be read in conjunction with Part B, Section 2.0 - Basis of Payment to Consultant.

Table 1

Deliverables Description	Maximum Fees for Deliverable (fixed dollar amount or % of total)	Maximum Expenses
<Report #1>	<fixed dollar amount or percentage>	<dollar amount>
<Report #2>	<fixed dollar amount or percentage>	<dollar amount>
<Final Report>	<fixed dollar amount or percentage>	<dollar amount>
“Agreement Price” (maximum fees and expenses) excluding any taxes applicable to the sale hereunder, as per Part B, Section 2.1	<dollar amount>	<dollar amount>

3.2 Pursuant to Part B, Section 2.2 - *Hourly (or Daily) Rates/Unit Rates Fixed*, the Consultant now confirms that the hourly rates in the following Table 2 apply for the listed Consultant’s Personnel:

<Record each person’s name, role and rate.>

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APPENDIX 5 - FORM OF AGREEMENT

Table 2

Name/Title	Area of Responsibility/ Description of Services Provided	Hourly Rate
<📄insert name> Consultant's Project Manager	<📄>	<📄>
All other Consultant's Personnel for whom the City may be required to pay fees hereunder	<📄>	<📄>

4.0 KEY PERSONNEL

Pursuant to Part B, Section 1.6 - *Key Personnel*, the following individuals are now designated "key personnel":

<📄Insert Information on Key Personnel.>

Table 3 - Key Personnel

Name/Title	Area of Responsibility/Description of Services Provided
<📄insert name> Consultant's Project Manager	

5.0 PROJECT SCHEDULE

Pursuant to Part B, Section 1.7 - *Project Schedule*, the following Project Schedule will apply to the Services:

Table 4 - Project Schedule

<📄Insert Information on key dates and deadlines that City needs the Consultant to meet.>

Deliverable	Completion Deadline
<📄Report #1>	<📄>
<📄Final Report>	<📄>

6.0 CONFLICT OF INTEREST/LOBBYIST REGISTRATION DISCLOSURE

Pursuant to Part B, Section 17 - *Conflict of Interest/Lobbyist Registration Disclosure*, the Consultant has the following exceptions regarding conflict of interest or lobbyist registration:

<📄Insert "None" or list out exceptions to statements being made by Consultant in Section 17.>

REQUEST FOR PROPOSALS NO. PS20170285
CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
APPENDIX 5 - FORM OF AGREEMENT

This Agreement is between the City and the Consultant and consists of this Part A - *Agreement Details*, Part B - *Professional Services Terms and Conditions* and Part C - *Defined Terms* and any documents referred to in any of these sections. If there is any conflict between these sections, Part B - *Professional Services Terms and Conditions* and Part C - *Defined Terms*, will take precedence. The Consultant acknowledges that it has read and understands this Agreement.

AS EVIDENCE OF THE CITY'S AND THE CONSULTANT'S agreement to be legally bound by the terms of this Agreement, the City and the Consultant have signed where indicated below and delivered this Agreement to each other effective as of **<☒month, day, year>**.

CITY OF VANCOUVER
by its authorized signatory:

Signature

Print Name and Title

<☒LEGAL NAME OF CONSULTANT>
by its authorized signatory(ies):

Signature

Print Name and Title

Signature

Print Name and Title

PART B - PROFESSIONAL SERVICES TERMS AND CONDITIONS

1.0 CONSULTANT'S SERVICES TO THE CITY

1.1 Defined Terms

Capitalized words and terms used in this Agreement have the meanings given to them in Part C - *Defined Terms*.

1.2 Effective Date

This Agreement will take effect and become legally binding on the parties once it is signed and delivered by both the City and the Consultant.

1.3 Provide Services

The Consultant now agrees to provide and be fully responsible for the Services.

1.4 No Contracting Out Without Consent

The Consultant will not engage sub-consultants or otherwise assign, sub-contract or let out as task work any part of the Services, unless the Consultant has obtained the prior written consent of the City's Project Manager, which consent may be arbitrarily withheld.

1.5 Quality of Service

The Consultant represents and warrants that, it has the necessary skill, ability, experience, personnel and other resources to perform the Services, and that it will perform the Services:

- (a) with the degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to the Services,
- (b) in accordance with sound current professional practices,
- (c) in conformance with the latest standards and codes prescribed by professional and regulatory bodies in the applicable profession, field or discipline, and
- (d) in accordance with the requirements of this Agreement, and any requests or instructions of the City's Project Manager made/given pursuant hereto.

1.6 Key Personnel

The Consultant will furnish all personnel required to perform the Services, and all such personnel will be competent and qualified to perform the Services. Where specific key personnel have been named as such in Part A, Section 4.0 - *Key Personnel*, such key personnel will not be replaced with other personnel without the prior written consent of the City's Project Manager, which consent may be arbitrarily withheld.

1.7 Project Schedule

The Consultant will commence the Services promptly and will carry out the Services in accordance with the Project Schedule.

2.0 BASIS OF PAYMENT TO THE CONSULTANT

2.1 Maximum Fees and Expenses - Agreement Price

This Agreement is a "time and materials" contract subject to a maximum price. Accordingly, despite any other term of this Agreement (except for Part A, Section 3.0 - *Deliverables/Agreement Price*) the maximum fees and expenses payable by the City to the Consultant for the Services is the amount set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price* (the "Agreement Price") (excluding GST and PST applicable to the sale hereunder).

2.2 Hourly (or Daily) Rates/Unit Rates Fixed

All hourly (or daily) rates and unit rates set out in this Agreement will remain fixed until the completion of the Services and may not be increased by the Consultant for any reason.

2.3 Basis of Payment

In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms of this Agreement, the City will pay the Consultant the fees and expenses set out in this Agreement, plus the GST due upon the sale hereunder, as applicable.

2.4 "Time and Materials" Agreement

Subject to the other terms of this Agreement, payment to the Consultant will be based on:

- (a) hours worked by the Consultant's Personnel in providing the Services multiplied by the applicable hourly charge-out rate for that personnel as set out in Table 2 of Part A, Section 3.0 - *Deliverables/Agreement Price*; and
- (b) the direct out-of-pocket expenses necessarily incurred in providing the Services and expressly permitted to be charged separately under this Agreement.

2.5 Deliverable Price is Maximum

Despite anything to the contrary in this Agreement (except Part A, Section 3.0 - *Deliverables/Agreement Price*), the maximum fees and expenses to be paid by the City to the Consultant for each Deliverable will not exceed the amounts set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price* for that Deliverable, and accordingly:

- (a) where the aggregate of the time and materials utilized by the Consultant to deliver a Deliverable is less than the maximum amounts set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price*, the City will only pay for the aggregate of the time and materials at the hourly (or daily) rates for fees and the actual amounts for expenses;
- (b) where the aggregate of the time and materials utilized by the Consultant to deliver a Deliverable exceeds the maximum amounts set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price* for that Deliverable, the City will only pay the maximum fees and expenses amount set out there for that Deliverable, and

the Consultant will only invoice for, and the City will only be obligated to pay, a maximum of 90% of the maximum amounts set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price* for each Deliverable, with the remaining ten percent being a performance security holdback retained by the City, and which the City will be obligated to

pay once all Deliverables have been completed in accordance with the terms and conditions of this Agreement and accepted by the City's Project Manager.

2.6 Services Obligations included in Agreement Price

The Agreement Price and maximum amounts of fees and expenses as set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price* will in no way diminish the duties and obligations of the Consultant to provide the Services covered by this Agreement.

2.7 Permitted Expenses

Subject to the maximum liability of the City under Part A, Section 3.0 - *Deliverables/Agreement Price*, expenses for which the City will reimburse the Consultant will be limited to the following:

- (a) transportation costs, for any of the Consultant's Personnel to travel to meetings requested by the City's Project Manager at locations other than the Consultant's offices or the City's premises within the City of Vancouver, not to exceed \$0.41 per kilometre to a maximum of 10 kilometres one way. No accommodation, food or other travel related expenses will be reimbursable;
- (b) long distance telephone calls;
- (c) photocopies to a maximum of \$0.20 per page; and
- (d) delivery of reports, documents, drawings or correspondence by courier, where this method of delivery has been requested by the City's Project Manager.

Reimbursement of these expenses by the City will be at actual cost without any addition for overhead or profit.

All other expenses not listed above are now deemed to be expressly included in the Consultant's fees.

If the Consultant has engaged Sub-Consultant(s), then the Consultant will make full payment to those Sub-Consultant(s) for work performed in relation to the Services.

2.8 Sub-Consultant Services Included unless Expressed Otherwise

Where the City and Consultant have expressly stated in Part A - *Agreement Details* (or by a written change order signed by each of the City and the Consultant) that certain Services to be performed by a Sub-Consultant are to be paid for separately from (and in addition to) payment for the other Services, the City will reimburse the Consultant for payments made to such Sub-Consultant(s) at amounts equal to the actual payments made to that Sub-Consultant by the Consultant without any additions for overhead and profit.

2.9 Interim Invoices

The Consultant will, by the 25th day of each month, provide to the City's Project Manager a draft invoice with an attached detailed account of all charges to be claimed by the Consultant for the preceding month (if any). The City's Project Manager shall review the draft, raise any concerns with the Consultant within ten working days and, after settlement of any issues (in the City's Project Manager's discretion), approve the draft invoice. The Consultant, if so requested, will meet with the City's Project Manager to expedite and settle of the draft invoice. The Consultant will submit its final invoice, as per the approved draft invoice, to the

City of Vancouver, Attention: Accounts Payable, by email to APIInvoice@vancouver.ca. The invoice must contain:

- (a) the Consultant's name, address and telephone number;
- (b) the City purchase order number;
- (c) the name of the City's Project Manager;
- (d) the invoice number and date; and
- (e) Tax registration number(s).

Each invoice will list the names, hours worked and hourly (or daily) rates of all Consultant's Personnel that have provided Services for each Deliverable that month, the total amount of previous payments made by the City for each Deliverable, the percentage completion for each Deliverable, a holdback of ten percent from the invoice and, for the purposes of showing the 90% limit on each Deliverable referred to in Section 2.5 above and Section 2.10 below, the percentage that all invoices to date bears to the total maximum fees and expenses for each Deliverable.

Each invoice will show separately the amount of the GST, if applicable.

Attached to each invoice will be copies of:

- (a) invoices for all expenses claimed, categorized according to Deliverable;
- (b) confirmation of payments made to Sub-Consultant(s) for the previous month (if any) for each Deliverable; and
- (c) a brief report detailing work completed to date, work completed during the month covered by the invoice and work outstanding to complete each Deliverable.

2.10 90% Limit on Time & Materials Payments Until Completion

Despite anything to the contrary in this Agreement:

- (a) the City will never be obligated to pay the Consultant a greater percentage of total fees and expenses than the percentage that corresponds to the actual percentage of completion of each Deliverable set out in Table 1 of Part A, Section 3.0 - *Deliverables/Agreement Price*; and
- (b) the City will never be obligated to pay more than 90% of the fees and expenses actually owing on any monthly invoice until after all Deliverables have been completed in accordance with the terms and conditions of this Agreement and accepted by the City's Project Manager, and then the aggregate of the ten percent holdbacks will become due.

2.11 Review of Invoice

If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Consultant's invoices, for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, PROVIDED, that the City will use reasonable efforts to have the review, audit or clarification resolved within a 60-day period. The City will, if it approves the amount of such invoice, cause it to be paid within 30 calendar days of approval.

2.12 Records Requirements

The Consultant will keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all expenses and percentage amounts of work completed. All such accounts and records will not be disposed of by the Consultant without the prior written consent of the City's Project Manager. The City will be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as may be reasonably necessary or advisable.

2.13 Taxes/Currency

The Agreement Price is expressed and payable in Canadian dollars and is exclusive of any GST and PST, as applicable.

3.0 CHANGES TO SCOPE OF SERVICES

The City's Project Manager may, at any time and from time to time and without invalidating this Agreement, require a change to the Services and/or the Project Schedule. Should the Consultant consider that any such request or instruction constitutes a change warranting amendment of the Agreement Price or Project Schedule, the Consultant must advise the City in writing prior to acting on any such request or instruction, and in any event within five (5) Business Days of such request or instruction. In that case, the maximum Agreement Price and/or Project Schedule will be adjusted, if/as agreed to by both parties in writing, and failing agreement, if/as the City's Project Manager may determine, acting reasonably. Failing any such adjustment, the Services provided pursuant to the request or instruction will be deemed to be included within the Agreement Price and to be subject to the Project Schedule.

4.0 RELEASE AND INDEMNIFICATION

4.1 Release

The Consultant now releases the City and the City's Personnel from all Losses including those caused by personal injury, death, property damage or loss, and economic loss, arising out of, suffered or experienced by the Consultant or the Consultant's Personnel in connection with their performance of the Services.

4.2 Acceptance "As Is"

In undertaking the Services, the Consultant acknowledges that it has inspected the City's site(s), agrees to accept the site(s) "as-is" and undertakes to take all precautions necessary to ensure the safety of all the Consultant's Personnel.

4.3 Indemnity

Despite any insurance which may be placed by the City, the Consultant now indemnifies and will indemnify and save harmless the City and the City's Personnel from and against all Losses that the City or the City's Personnel may sustain, incur, suffer or be put to at any time either before or after the completion of the Services or sooner cancellation of this Agreement, that arise out of any act or failure to act of the Consultant or the Consultant's Personnel under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Losses are caused by errors, omissions or negligent acts of the City or the City's Personnel.

4.4 Separate from Other Remedies and Rights

This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law.

4.5 Survival of Release/Indemnity

This Section 4.0 will survive the completion of the Services or sooner cancellation of this Agreement.

5.0 INSURANCE

5.1 Required Types/Amounts

Prior to commencing the Services, the Consultant will obtain at its own expense:

- (a) a professional (errors and omissions) liability insurance policy with limits of not less than \$1,000,000 per claim and \$1,000,000 in the aggregate, and a deductible of not more than \$50,000, protecting the Consultant against all claims for loss or damage arising out of any error or omission of the Consultant or the Consultant's Personnel in the performance of the Services; and
- (b) a commercial general liability insurance policy with limits of not less than \$2,000,000 per occurrence, and a deductible of not more than \$5,000, protecting the Consultant and the Consultant's Personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Consultant or the actions of the Consultant or the Consultant's Personnel. The policy will contain a cross-liability clause in favour of the City and will name the City and the City's Personnel as additional insured.

5.2 Required Policy Terms

All required insurance policies will remain in full force and effect at all times until completion of the Services or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and will:

- (a) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City's Director of Risk Management, acting reasonably;
- (b) be primary insurance in respect to the City, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute with such policies;
- (c) contain a provision that such insurance coverage will not be cancelled without the insurer giving the City at least 30 calendar days' prior written notice; and
- (d) for any property insurance carried by the Consultant, contain a clause that waives the insurer's right of subrogation against the City and the City's Personnel.

5.3 Insurance Certificate

Prior to signing this Agreement or immediately thereupon, the Consultant shall provide the City's Project Manager with evidence of all required insurance to be taken out in the form of one or more Certificate(s) of Insurance. The Certificate(s) of Insurance will identify the Agreement title, number, policyholder and scope of work and must not contain any

qualifications or disclaimers. Proof of insurance, in the form of such Certificate(s) of Insurance (or copies of the policy(ies) themselves, if requested), will be made available to the City's Project Manager at any time during the performance of the Services immediately upon request.

5.4 Sub-Consultant's Insurance

The Consultant will provide in its agreements with its Sub-Consultants insurance clauses in the same form as in this Agreement. Upon request, the Consultant will deposit with the City's Project Manager detailed Certificates of Insurance for the policies of its Sub-Consultants (or copies of the policy(ies) themselves, if requested) and a copy of the applicable insurance clauses from its Sub-Consultant agreements.

5.5 Insurance Requirements Additional to any other Requirements

The Consultant and each of its Sub-Consultants will provide, at its own cost, any additional insurance which it is required by law to provide or which it considers necessary.

5.6 Insurance Requirements Independent of Agreement Obligations

Neither the providing of insurance by the Consultant or the Sub-Consultants in accordance with this Agreement, nor the insolvency, bankruptcy or failure of any insurance company to pay any claim accruing, will be held to relieve the Consultant from any other provisions of this Agreement with respect to liability of the Consultant or otherwise.

6.0 WORKSAFEBC REQUIREMENTS

6.1 Maintain Coverage - General

The Consultant will carry and pay for full WorkSafeBC coverage for itself and all the Consultant's Personnel engaged within British Columbia in the performance of the Services, failing which the City has the unfettered right to set off and withhold the amount of any unpaid premiums, assessments and/or penalties for such WorkSafeBC coverage against any amounts owing by the City to the Consultant pursuant to this Agreement, until all amounts payable to WorkSafeBC have been paid in full.

6.2 Provide Evidence of Coverage - General

On request, the Consultant will provide the City's Project Manager with the Consultant's WorkSafeBC registration number and a letter from WorkSafeBC confirming that the Consultant is registered in good standing with WorkSafeBC and that all amounts owing to WorkSafeBC have been paid to date, prior to the City having any obligation to pay any invoice under this Agreement. The Consultant will indemnify the City and hold harmless the City from all manner of Losses arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged in the performance of the Services or arising out of or in any way related to the failure to observe the safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.

7.0 CITY APPROVALS

No reviews or approvals carried out or information supplied by the City or the City's Personnel will derogate from the duties and obligations of the Consultant, and all responsibility related to the Services will be and remain with the Consultant.

8.0 CANCELLATION

The City (through the City's Project Manager) may at any time, in its sole discretion, whether or not the Consultant is in default, cancel this Agreement in whole or in part by giving 5 Business Days' prior written notice to the Consultant. Where the Consultant is not in default and the City cancels this Agreement, the City will pay the Consultant at the rates set out in this Agreement for all Services properly performed to the date of the delivery of the cancellation notice (subject to the terms of this Agreement) plus necessary and reasonable wind-up costs incurred, if any, in respect to the cancellation. However, in no event will the Consultant be entitled to compensation for wind-up costs which exceed ten percent of the remaining balance of the Agreement Price as at the date of cancellation.

9.0 CONFIDENTIALITY

The Consultant acknowledges that, in performing the Services required under this Agreement, it will acquire information about certain matters which are confidential to the City, and that such information is the exclusive property of the City. The Consultant undertakes to treat as confidential all information received by reason of its position as Consultant, and agrees not to disclose the same to any third party either during or after the performance of the Services under this Agreement, without the express prior written consent of the City's Project Manager.

10.0 OWNERSHIP OF DOCUMENTS AND COPYRIGHT

10.1 Ownership

All reports, drafts, data, drawings, audiovisual materials, information, plans, models, designs, specifications and other documents or products produced, received or acquired by the Consultant as a result of the provision of the Services (the "Material") shall be, and the Consultant shall do all things necessary to ensure that they shall be, the sole property of the City, and the City will have the right to utilize all of the Material for its benefit in any way it sees fit without limitation.

10.2 Time of Delivery

The Material will be delivered by the Consultant to the City's Project Manager immediately on the expiration or sooner cancellation of this Agreement, provided that the City's Project Manager may, at any time or times prior to the expiration or sooner cancellation of this Agreement, give written notice to the Consultant requesting delivery by the Consultant to the City's Project Manager of all or any part of the Material, in which event the Consultant will immediately comply with such request.

10.3 Patent and Copyright

(a) The Consultant now transfers title in and to the Material and assigns to the City sole copyright in the Material. The Consultant agrees that title to the Material is to be considered to have been transferred, and any copyright in the Material is to be considered to have been assigned by the Consultant to the City upon creation of the Material. The Consultant now irrevocably waives, in favour of the City, the Consultant's moral rights in respect of the Material. The Consultant will obtain in writing, from the Consultant's Personnel or from any other source used, all required assignments, waivers, including waivers of moral rights, releases of interest and acknowledgements necessary to transfer title to and copyright in the Material to the City.

- (b) The Consultant now represents and warrants that the Material produced by the Consultant will not infringe any patent or copyright or any other industrial or intellectual property rights including trade secrets.

11.0 NON-RESIDENT WITHHOLDING TAX

- 11.1 If the Consultant is a non-resident of Canada, as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation unless a Canada Revenue Agency waiver has been provided to the City within the time limits required under the Canada Revenue Agency administrative guidelines as in effect from time to time, and in any event, prior to payment of an invoiced amount.
- 11.2 The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest will be payable by the City on sums withheld and later paid directly to the Consultant.
- 11.3 The Consultant shall indemnify the City for any Losses incurred by the City as a result of the Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.

12.0 CITY BUSINESS LICENCE

The Consultant will comply at all times with the City of Vancouver License By-law.

13.0 RESOLUTION OF DISPUTES

This Agreement will be governed by the laws of British Columbia and the parties now irrevocably attorn to the jurisdiction of, and agree to submit all disputes to, the courts of British Columbia for resolution.

14.0 INDEPENDENT CONSULTANT

This Agreement is a contract for services and the Consultant and the Consultant's Personnel, are not, nor are they to be deemed to be partners, appointees, employees or agents of the City.

15.0 NO ASSIGNMENT

The Consultant will not assign, either directly or indirectly (including, without limitation, by way of any transfer of control of the shares or ownership interests in the Consultant), this Agreement or any right of the Consultant under this Agreement, without the prior written consent of the City's Project Manager, which consent may be arbitrarily withheld.

16.0 NO PROMOTION

The Consultant must not disclose or promote its relationship with the City, including by means of any verbal declarations or announcements and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures, web sites or other written materials (whether in print, digital, electronic or other format) without the express prior written consent of the City's Project Manager (except as may be necessary for the Consultant to perform the Consultant's obligations under the terms of this Agreement). The Consultant undertakes not to use the name, official emblem, mark, logo or mascot of the City, including without limitation, the use of "City of Vancouver", "Vancouver Police Board", "Vancouver Public Library", "Vancouver Park Board", "Vancouver Board of Parks and Recreation", or any other reference or means of promotion or publicity to any of the foregoing, without the express prior written

consent of the City's Project Manager. Furthermore, the Consultant undertakes not to disclose or promote its relationship with the City in any communication or matter whatsoever as a basis to create an association, express or implied, between the Consultant and the "City of Vancouver", "Vancouver Police Board", "Vancouver Public Library", "Vancouver Park Board", or "Vancouver Board of Parks and Recreation".

17.0 CONFLICT OF INTEREST/LOBBYIST REGISTRATION DISCLOSURE

17.1 Conflict of Interest

- (a) The Consultant agrees that until 90 calendar days after completion of the Services, the Consultant will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person whether or not a client of the Consultant's. The Consultant now acknowledges that a breach of this Section 17.1 could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada and accordingly could be punishable as a crime and not merely as a breach of contract.
- (b) The Consultant now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Consultant's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:
 - (i) an elected official or employee of the City, or
 - (ii) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration or this Agreement or the performance of the Services,

except as expressly disclosed in Part A - *Agreement Details*, and now agrees that if at any time prior to 90 calendar days after completion of the Services such declarations or representations cease to be true, complete and accurate, the Consultant will notify the City's Project Manager immediately.

17.2 Lobbyist Registration Disclosure

The Consultant now confirms and warrants that neither it nor any of its Sub-Consultants, nor any of their respective officers, directors, shareholders, partners or employees is registered as a lobbyist under any lobbyist registration legislation in any jurisdiction in Canada or the United States of America, except as expressly disclosed in Part A - *Agreement Details*, and now agrees that if at any time prior to 90 calendar days after completion of the Services such declarations or representations cease to be true, complete and accurate, the Consultant will notify the City's Project Manager immediately.

18.0 NOTICES

Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party c/o its Project Manager at the respective address specified in Part B, Section 1.0 - *Project Managers*, or to such other address in Canada as either party may specify in writing to the other. Any such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown

or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

19.0 TIME OF ESSENCE

Time will be of the essence of this Agreement.

20.0 FORCE MAJEURE

Notwithstanding anything to the contrary contained herein, if an Event of Force Majeure occurs or is likely to occur, the party whose performance is affected thereby will promptly notify the other party of the particulars of the relevant event or circumstances and, if reasonably possible, supply supporting evidence. The parties will use their reasonable best efforts to remove, curtail or contain the cause of the delay, interruption or failure (provided that the terms of settlement of any labour disturbance, dispute, strike or lockout will be wholly in the discretion of the party which is the employer affected) and to resume, with the least possible delay, their compliance with their respective duties, covenants and obligations under this Agreement. Neither the City nor the Consultant will be liable to the other for any delay, interruption or failure in the performance of its duties, covenants or obligations hereunder if caused by an Event of Force Majeure, and the date limited for the performance of such duties, covenants or obligation hereunder will be postponed for a period equal to the delay occasioned by such an Event of Force Majeure, unless otherwise agreed in writing by the parties hereto.

21.0 LEGAL EFFECT/ENTIRE AGREEMENT

This Agreement is the entire agreement between the parties, and will benefit and bind each party and their successors and permitted assigns.

SAMPLE

REQUEST FOR PROPOSALS NO. PS20170285
CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
APPENDIX 5 - FORM OF AGREEMENT

PART C - DEFINED TERMS

1.0 DEFINITIONS

In this Agreement, the following words and phrases have the following meanings:

- (a) **"Agreement"** means this agreement as set out in Part A - *Agreement Details*, Part B - *Professional Services Terms and Conditions* and Part C - *Defined Terms* and any documents referred to in any of these sections, all as may be amended from time to time as contemplated hereby;
- (b) **"Agreement Price"** has the meaning set out in Part B, Section 2.1 - *Maximum Fees and Expenses - Agreement Price*;
- (c) **"Business Day"** means any day other than a Saturday, Sunday or "holiday" as defined in the *Interpretation Act* (British Columbia);
- (d) **"Certificate(s) of Insurance"** means certificate(s) of the type provided to the Consultant by the City and required to be completed pursuant to Part B, Section 5.0 - *Insurance*;
- (e) **"City"** means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (f) **"City's Personnel"** means the City's and the City's contractors' directors, officials, officers, employees, agents, licensees and invitees and includes where the context permits, the Vancouver Police Board, Vancouver Public Library Board, Vancouver Board of Parks and Recreation, and all officials, officers, employees and other agents of each of the same, but excludes the Consultant's Personnel;
- (g) **"City's Project Manager"** means the City's employee or representative (or any replacement or delegate of that person) who is authorized to deal with the Consultant on behalf of the City in connection with the Services and to make decisions in connection with this Agreement, as identified in Part A, Section 1.0 - *Project Managers* (or as varied by the City upon written notice to the Consultant);
- (h) **"Consultant"** means the entity defined as such on the front page of Part A of the Agreement;
- (i) **"Consultant's Personnel"** means the Consultant's and the Sub-Consultants' respective partners, principals, directors, officials, officers, employees, agents, licensees and invitees;
- (j) **"Consultant's Project Manager"** is the Consultant's employee or representative who has the overall responsibility for the successful planning and execution of the Services and who is authorized to deal with the City on behalf of the Consultant in connection with the Services and to make decisions in connection with this Agreement, as identified in Part A, Section 1.0 - *Project Managers* (or as varied by the Consultant upon written notice to the City);
- (k) **"Deliverable"** means the Services completion/payment milestones specifically identified as such in Part A, Section 3.0 - *Deliverables/Agreement Price*;

REQUEST FOR PROPOSALS NO. PS20170285
CONSULTANT SERVICES FOR HEALTHY CITY STRATEGY EVALUATION
APPENDIX 5 - FORM OF AGREEMENT

- (l) “Event of Force Majeure” means acts of God or public enemy (including criminals and terrorists), wars (declared or undeclared), revolution, riots, insurrections, civil commotions, fires, floods, slides, epidemics, quarantine restrictions, strikes or lockouts, including illegal work stoppages or slowdowns, or stop work orders issued by a court or public authority, including the City (provided that such orders were not issued nor any such labour disputes occasioned as a result of an act or omission of the Consultant, or anyone employed or retained by the Consultant), freight embargos or power failures, PROVIDED that any such event or circumstance reasonably constitutes a material disabling event or circumstance which is beyond the reasonable control of the party claiming force majeure, does not arise from the neglect or default of the party claiming force majeure, and results in a material delay, interruption or failure by the party in carrying out its duties, covenants or obligations under this Agreement, but which does not mean or include any delay caused by the Consultant’s lack of funds or financial condition;
- (m) “GST” means the tax payable and imposed pursuant to Part IX of the Excise Tax Act (Canada), as amended or replaced from time to time;
- (n) “Losses” means all:
- (i) direct and indirect, as well as;
 - (ii) consequential,
- claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and expenses, interest, penalties and amounts paid in settlement, whether from a third person or otherwise);
- (o) “Material” has the meaning set out in Part B, Section 10 - *Ownership of Copyright and Documents*;
- (p) “Project Schedule” means the schedule for delivery of the Services as set out in Part A, Section 5.0 - *Project Schedule*;
- (q) “PST” means the provincial sales tax payable and imposed pursuant to the Provincial Sales Tax Act (British Columbia), as amended or replaced from time to time;
- (r) “Services” means the services described in Part A, Section 2.0 - *Services*, as varied pursuant to Part B, Section 3.0 - *Changes to Scope of Services*, or pursuant to any written agreement between the City and the Consultant entered into subsequent to the date of the Agreement;
- (s) “Sub-Consultant” means the independent consultants, agents, affiliates, associates, subcontractors and other third parties, if any, retained by the Consultant to assist in the performance of the Services;
- (t) “WorkSafeBC” means the entity formerly known as Workers Compensation Board (British Columbia) an entity created pursuant to the *Workers Compensation Act* (British Columbia) and any reference to “WorkSafeBC” requirements includes a reference to that Act as well as all regulations and directives enacted or issued from time to time pursuant to that Act, all as amended or replaced from time to time.