



**Request for Proposals  
Advertising Concessions- BIA  
Proposal No.: P16-022  
Issue Date: February 10, 2016**

**Addendum No. 1**

The following questions were submitted. The City's responses to the questions follow in *Italics*.

1. Q: The term in the RFP is three (3) years with 2 one year provisional extensions. Three (3) years is not enough time to depreciate the sizeable capital investment required for a world-class advertising program. Would the City consider a 5 year initial term?

*Answer: The City will agree to a five (5) year term.*

2. Q: In regards to the MAG, would the City of Bangor please clarify if they are requesting a MAG of \$18,000 as indicated on page 1, or a \$16,000 MAG as indicated on page 7?

*Answer: The MAG should be \$18,000.*

3. Q: Would the City of Bangor please provide a sample agreement?

*Answer: Please see attached sample agreement.*

4. Q: Would the City of Bangor please confirm their specific ACDBE goal for the advertising concession?

*Answer: The airport's overall goal is 0.24% of the total gross receipts of the concessions.*

5. Q: Our financial statements are voluminous, would it be acceptable to submit the required two year annual financial statements in an accompanying electronic format such as a CD or USB drive?

*Answer: The City will accept the financial documents in electronic formats.*

All other terms, conditions and specifications remain the same.

Please acknowledge this addendum by signing the acknowledgment below and returning this form with your bid.

If you have already submitted a bid and would like to make a change reflecting this addendum, you may request in writing your bid be returned to you.

The following Addendum(s) is/are hereby acknowledged:

**Addendum No. 1 – Issued February 10, 2016**

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Name (print or type)

**Sample Contract for Professional Services  
between  
The City of Bangor  
and  
Sample Company**

**THIS AGREEMENT** made this \_\_\_ day of \_\_\_\_\_ 2012, by and between the City of Bangor, (hereinafter called the "CITY"), and Sample Company, (hereinafter called the "CONSULTANT").

**THEREFORE**, in consideration of the foregoing and other valuable consideration paid to the CONSULTANT and with the parties hereto intending to be legally bound, the CONSULTANT and CITY agree as follows:

**Article 1: Services:**

CONSULTANT agrees to provide the personnel, supplies, labor and materials necessary to perform professional advertising and marketing services to the Bangor International Airport.

**Article 2: Consultant's Performance:**

CONSULTANT accepts the relationship of trust and confidence established between itself and the CITY by this AGREEMENT and will endeavor to perform the services hereunder in the best and most expeditious and economical manner consistent with sound professional practices and consistent with the interest of the CITY. The CONSULTANT shall be, and shall remain, fully responsible to the CITY for the technical completeness, sufficiency and accuracy of all professional services furnished by or under this AGREEMENT. The CONSULTANT shall, without additional cost or fee to the CITY, correct and revise any errors or deficiencies in its performance. The CONSULTANT shall pay CITY for any loss, damages, or costs, including attorney's fees, resulting from CONSULTANT's breach or default under this AGREEMENT or incurred by the CITY for the replacement or correction of any part of the work hereunder which is deficient, defective or untimely.

**Article 3: Quality of Service:**

The CONSULTANT shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such.

The CONSULTANT shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications and other items and services furnished under this AGREEMENT.

*If the CONSULTANT fails to meet applicable professional standards, CONSULTANT shall without additional compensation, correct or revise any errors or deficiencies in its reports, surveys or other services.*

**Article 4: Personnel; Independent Consultant:**

*The CONSULTANT represents that it has, or will secure at its own expense, all personnel required in performing its services under this AGREEMENT. Such personnel shall not be officers or employees of the CITY, or have any contractual relationship with the CITY.*

*The CONSULTANT further agrees that consistent with its status as an Independent Consultant that its personnel will not hold themselves out to be, nor claim to be, officers or employees of the CITY by reason of this AGREEMENT.*

**Article 5: City's Representative:**

*The CITY may assign an authorized representative, who will act as the CITY's representative in all dealings with the CONSULTANT for this project. CONSULTANT's performance hereunder shall be subject to the CITY's review and approval and said approval shall be a condition precedent to payment to CONSULTANT. Said approval shall not be unreasonably withheld.*

**Article 6: City's Responsibility:**

*The CITY agrees to furnish or provide access to the CONSULTANT any information or material in its possession which is relevant to CONSULTANT's performance hereunder. CITY staff will cooperate with CONSULTANT and CONSULTANT will not, without the CITY's written consent, disclose, or permit disclosure by any officer, employee, agent or subconsultants of CONSULTANT, any information or material furnished or generated under this AGREEMENT.*

**Article 7: Performance:**

*The CONSULTANT agrees to perform in accordance with all reasonable requirements of the CITY. The CITY agrees to cooperate in helping to implement any time frame established. In the event of delay for reasons beyond its control and not its fault, the CONSULTANT may request necessary adjustments to said time frame. The CITY's representative may approve any adjustments and said approval will not be unreasonably withheld.*

**Article 8: Compensation:**

*The CITY agrees to pay CONSULTANT for the services hereunder according to the Schedule of Fees contained in the CONSULTANT's proposal. It is expressly agreed that the CITY shall receive all statements or bills for services provided under this AGREEMENT, and shall guarantee all payments of the same to the CONSULTANT, provided that, in no case shall the total payments for the services required for any project exceed the established budget without the express written approval of the CITY.*

*It is expressly contemplated by the parties that a portion of the CONSULTANT's services to be performed under this AGREEMENT may be performed by an approved subconsultant. All subconsultants must be approved by the CITY for each project undertaken by the CONSULTANT.*

*Where the CONSULTANT uses the services of a supplier to provide services to the CITY, or purchase media on the CITY's behalf, and the CONSULTANT pays for the services or media instead of the CITY, the CITY agrees to pay the CONSULTANT the cost of the supplier services together with a mark-up that will not exceed 10% of the gross amount as a commission.*

*Depending on the scope of work, these services may include mechanical and art costs (including typography, artwork and stock photography), news distribution costs (including wire services and mailing houses), research activities (including market research fees, on-line database charges, clipping services, and focus group costs), producer's or packager's fees, and third party spokesperson fees and expenses.*

**Article 9: Payment Terms:**

*The CONSULTANT will submit invoices for payment at monthly intervals. Payment for services will be due within thirty (30) days of the billing date.*

**Article 10: Contract Term:**

*The term of this AGREEMENT will be for a period of three (3) years commencing with the execution of this AGREEMENT. This AGREEMENT has an option to renew for two (2) additional one (1) year periods if mutually agreeable between both parties.*

**Article 11: Ownership of Documents:**

*All reports, memoranda, plans, specifications, documents or other material to be developed by the CONSULTANT under this AGREEMENT shall be the property of the CITY and be promptly delivered to the CITY upon request. The CONSULTANT shall be permitted to retain copies, including reproducible copies, of plans and specifications for the CONSULTANT's information and reference.*

*Notwithstanding CITY ownership, the CITY shall not use any reports, memoranda, plans, specifications documents or other material developed by the CONSULTANT as design documents on any other project other than the project for which developed, except by agreement with the CONSULTANT in writing. All field data, internal reports, memoranda, notes, calculation estimates and any other internal documents used to prepare the documents and memoranda submitted to the CITY shall be deemed the CONSULTANT "work papers", and as such the "work papers" will remain the property of the CONSULTANT generating that material.*

*The CONSULTANT shall be responsible for the protection and/or replacement of any work or material in its possession, including materials provided to the CONSULTANT by the CITY. The CONSULTANT understands and agrees that all documents and materials provided to the CITY hereunder are or may be public documents and as such will be available generally to the public. Reasonable use of any such documents by the CITY or the general public shall not be subject to a claim for infringement of any copyrights claimed by the CONSULTANT in such documents.*

*The CITY has no responsibility for any use which may be made of them by any third party and the CITY may use them for any lawful purpose.*

*The CONSULTANT and subconsultants disclaim any liability to any party other than the CITY for any reliance on the documents and further that the CONSULTANT and subconsultants disclaim any liability to the CITY if the reports and documents are relied upon or used for any purpose for which they are not intended.*

### **Article 12: Indemnification:**

*The CONSULTANT shall indemnify, defend and hold harmless the CITY from and against all claims and actions, and all expenses incidental to such claims or actions, based upon or arising out of damage to property or injuries to persons or other tortious acts caused or contributed to by the CONSULTANT or anyone acting under its direction or control or in its behalf in the course of its performance under this AGREEMENT, provided the CONSULTANT's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability based upon the sole negligence of the CITY.*

*The CONSULTANT hereby expressly agrees that it will defend, indemnify and hold the CITY harmless from any and all claims made or asserted by the CONSULTANT's agents, servants or employees arising out of the CONSULTANT's activities under this AGREEMENT. For this purpose, the CONSULTANT hereby expressly waives any and all immunity it may have under Maine's Workers Compensation Act in regard to such claims made or asserted by the CONSULTANT's agents, servants or employees. The indemnification provided under this paragraph shall extend to and include any and all costs incurred by the CITY to answer, investigate, defend and settle all such claims, including but not limited to the CITY's costs for attorney's fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of the CONSULTANT's agents, servants or employees against the CITY in regard to claims made or asserted by such agents, servants or employees.*

### **Article 13: Insurance:**

*The CONSULTANT will procure and maintain General Liability Insurance coverage and Automobile Insurance coverage in amounts not less than Four Hundred Thousand Dollars (\$400,000) combined single limit for bodily injury, death, and property damage, and also Worker's Compensation Insurance coverage in the statutory amount. The CITY shall also be named as an additional insured, to the extent its interest may appear, on all such policies of insurance.*

The CONSULTANT shall procure and maintain Professional Liability Insurance coverage in an amount not less than Two Hundred Fifty Thousand (\$250,000) for all services provided herein. The CONSULTANT shall furnish and thereafter maintain certificates evidencing such coverage which certificates shall guarantee thirty (30) days notice to CITY of termination of insurance from insurance company or agent.

**Article 14: Subconsultants:**

None of the services covered by this AGREEMENT shall be subcontracted without the prior written consent of the CITY.

If specialists or subconsultants are required to complete the services hereunder the CONSULTANT shall propose such utilization for review and approval of the CITY. The CONSULTANT is and shall remain fully responsible for performances of all services hereunder.

**Article 15: Termination:**

1. For Cause: If the CONSULTANT or the CITY fails to fulfill its obligations under this AGREEMENT in a timely and proper manner, or violates any of the covenants of this AGREEMENT, the CITY or the CONSULTANT shall thereupon have the right to terminate this AGREEMENT by giving written notice to the other party of termination, and specifying the effective date thereof. In such event, all documents, studies and reports prepared by or for the CONSULTANT under this AGREEMENT shall become the CITY's property and the CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the foregoing, the CONSULTANT shall not be relieved of liability to the CITY for any damages sustained by the CITY by virtue of any breach of this AGREEMENT by the CONSULTANT, and the CITY may withhold any payments to the CONSULTANT for the purpose of set-off until such time as the exact amount of damages due the CITY from the CONSULTANT are determined.

2. For Convenience: The CITY may terminate this AGREEMENT upon seven (7) days written notice to the CONSULTANT. Upon termination, the CONSULTANT shall be compensated for all services performed to the date of receipt of notice of termination, plus all reimbursable expenses then due. Compensation for services performed prior to termination shall be at the hourly rates specified in the CONSULTANT's Fee Schedule.

Upon termination the CONSULTANT shall deliver to the CITY, one (1) copy of all otherwise deliverable studies, sketches, calculations, drawings, estimates, reports, records, schedules, and other such information and data accumulated in the performance of services under this AGREEMENT, whether completed or not, provided, however that:

- a. *In the event of termination for convenience, the CITY shall hold harmless, indemnify and defend the CONSULTANT against all losses, claims, and damages arising out of any use of such information and data for extensions to the project for which such information and data was prepared or for any other project; and*
- b. *Payment in full to the CONSULTANT for all services rendered, and reimbursable expenses incurred at the time of delivery of such information and data.*

**Article 16: No Assignment:**

*The CONSULTANT shall not assign, sublet, sell, transfer or otherwise dispose of its interest in this AGREEMENT without the prior written approval of the CITY which shall not be unreasonably withheld.*

*This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns.*

**Article 17: Separate Contracts:**

*The CITY may let other agreements in connection with the work. The CONSULTANT shall cooperate, schedule and coordinate performance of the work with the work of any separate consultants so as not to delay or interfere with their work, or with timely completion of the project.*

**Article 18: Nonwaiver:**

*Except as expressly provided in this AGREEMENT, the failure or waiver, or successive failures or waivers on the part of either party hereto, in the enforcement of any condition, covenant, or section shall not render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breach thereof.*

**Article 19: Notices:**

*All notices required or permitted under this AGREEMENT shall be in writing and shall be deemed sufficiently served if sent by First Class Mail addressed as follows, or such other address as they may designate in writing from time to time:*

**To City:**

*Deborah Cyr, Finance Director  
City of Bangor  
73 Harlow Street  
Bangor, Maine 04401*

**To Consultant:**

*Notice given in any other manner shall be deemed effective only when the written notice is actually received.*

**Article 20: Disputes:**

*In an effort to resolve any conflicts that arise during the term of this AGREEMENT, the CITY and CONSULTANT agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to non-binding mediation unless the parties mutually agree otherwise.*

*Any disputes arising out of or in the course of this AGREEMENT which are not settled by mediation may be resolved by litigation which shall be brought in Maine Superior Court for Penobscot County.*

**Article 21: Compliance with Law:**

*The CONSULTANT in its performance hereunder, shall comply with all applicable Federal, State and local statutes, ordinances and regulations in effect at the time of the services provided by the CONSULTANT. CONSULTANT agrees to amend this AGREEMENT, if necessary, to comply with such law or regulations.*

**Article 22: Extent of Agreement:**

*This AGREEMENT, with its Exhibits, represents the entire and integrated AGREEMENT between the CITY and CONSULTANT and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representatives, written or oral with respect to this AGREEMENT. This AGREEMENT may only be modified by written agreement of the parties.*

**Article 23: Changes:**

*The CITY may, at any time, request CONSULTANT to make changes within the scope of an established project that may increase the budget for the CONSULTANT's fees. CONSULTANT shall perform the change or extra work only after receipt of a change order to the purchase order for the CONSULTANT's services in connection with the project. Such additional services shall be agreed upon, in accordance with the rates set forth in the CONSULTANT's Fee Schedule and incorporated herein by reference.*

*The CITY will not be liable for any costs incurred by the CONSULTANT from performance of a change or extra work prior to issuance of a change order to the purchase order unless expressly authorized in writing.*

**Article 26: Expenses:**

*The CONSULTANT will also bill the CITY monthly for all incidental and other expenses incurred on its behalf, including, but not limited to, items such as travel, copying, press mailings, and printing.*

*The CONSULTANT will obtain authorization before making any commitments for any expenditure in excess of \$500 on the CITY's behalf.*

**Article 27: Cost Records and Accounting for Additional Services:**

*The CONSULTANT shall keep accounts, books and other records of all its billable charges incurred in performing services to the CITY and shall itemize and submit its billings to the CITY in such a manner as the CITY may reasonably direct.*

*If no such direction is given, the CONSULTANT shall maintain books and accounts of chargeable costs in accordance with generally accepted accounting practices consistently applied, and in such a manner as to permit verification of all entries made.*

*For three (3) years from final payment under this AGREEMENT, the CONSULTANT shall preserve all such books and records, and shall upon three day's written notice make such records available to the CITY for purposes of verifying the costs chargeable under this AGREEMENT.*

**Article 28: Authority to Execute:**

*This AGREEMENT contains all the terms, conditions and provisions pertaining to the work, there being no other understandings, agreements, warranties either express or implied, relative to the AGREEMENT that are not fully expressed herein.*

***IN WITNESS WHEREOF***, the parties hereto have caused this AGREEMENT to be executed on the day and year first above written.

Witness:

City of Bangor (CITY)

\_\_\_\_\_

\_\_\_\_\_  
Deborah Cyr, Finance Director

Witness:

**XXXX**  
(CONSULTANT)

\_\_\_\_\_

\_\_\_\_\_