



REQUEST FOR PROPOSALS

Selection of Non-Profit Operator for Marpole Place

RFP No. PS20150078

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REQUEST FOR PROPOSALS NO. PS20150078
SELECTION OF NON-PROFIT OPERATOR FOR MARPOLE PLACE
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PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

- 1.1 This Request for Proposals (the "RFP") provides an opportunity to submit Proposals for review by the City and, depending on the City's evaluation of Proposals, among other factors, to potentially negotiate with the City to enter into an Agreement. EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C OF THE RFP: (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.
- 1.2 The RFP concerns the City's interest in procuring services of a suitable facility operator for Marpole Place located at 1305 West 70th Avenue, in Vancouver, British Columbia. Details of the City's objectives and requirements to which the RFP relates are set out in Part B of the RFP. The City welcomes Proposals respecting innovative or novel approaches to the City's objectives and requirements.
- 1.3 The City is interested in selecting a Proponent, which is not, by the terms hereof, barred from submitting a Proposal, and with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The City currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of an Agreement between the Proponent and the City. 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.
- 1.4 The City currently intends that Proposals will be evaluated by the City in relation to their overall value, which will be assessed in the City's sole and absolute discretion. In assessing value, the City expects to consider the factors described in Section 7.0 below, among others.
- 1.5 NO BID SECURITY IS REQUIRED FROM PROPONENTS IN CONNECTION WITH THE SUBMISSION OF PROPOSALS BECAUSE NO PROPOSAL WILL BE DEEMED TO BE AN IRREVOCABLE OR OTHERWISE BINDING LEGAL OFFER BY A PROPONENT TO THE CITY. THE LEGAL OBLIGATIONS OF A PROPONENT THAT WILL ARISE UPON THE SUBMISSION OF ITS PROPOSAL WILL BE LIMITED TO THE TERMS AND CONDITIONS STATED UNDER THE HEADING "LEGAL TERMS & CONDITIONS" IN APPENDIX 1 TO THE PROPOSAL FORM (PART C).
- 1.6 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by Council.
- 1.7 Certain capitalized terms used herein but not defined where first used are defined in Section 12 below.
- 1.8 The RFP consists of four parts plus appendices:
- (a) PART A - INFORMATION AND INSTRUCTIONS: This part is intended to serve as a guide to the RFP process for Proponents.
- The following appendix expands on Part A:
- Appendix 1 to Part A - Information Meeting Attendance Form
- (b) PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS: This part describes the subject matter of the RFP, in respect of which the City invites Proposals. This part also stipulates the information that should be contained in each Proposal.
- The following appendices expand on Part B:
- Appendix 1 to Part B - Project Description & Drawings

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- Appendix 2 to Part B - Operating Expenses and Revenue Projections Form
- Appendix 3 to Part B - Certificate of Existing Insurance
- Appendix 4 to Part B - Declaration of Supplier Code of Conduct Compliance

- (c) **PART C - PROPOSAL FORM:** This part consists of the Proposal Form to be completed by each Proponent in connection with its Proposal. Each Proposal must be submitted under the cover of a duly completed and executed Proposal Form.

The following appendix expands on Part C:

- Appendix 1 to Part C - Legal Terms and Conditions

- (d) **PART D - FORM OF AGREEMENT:** This part contains a model Agreement. An Agreement or Agreements substantially in this form may be entered into between the City and the successful Proponent.

2.0 KEY DATES

- 2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for submitting Information Meeting Attendance form	5:00 p.m., June 6, 2016
Information Meeting	1:00 p.m., June 8, 2016
Deadline for Enquiries	5:00 p.m., August 5, 2016
Closing Time	3:00 p.m., August 16, 2016

- 2.2 All references to time in the RFP are references to the time in the City of Vancouver, as shown on the clock used by the City for the purposes of requests for proposals.

3.0 CONTACT PERSON

- 3.1 All enquiries regarding the RFP must be addressed to:

Gamaliel Martinez

Email: gamaliel.martinez@vancouver.ca

- 3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

- 3.3 IF A POTENTIAL PROPONENT BELIEVES THAT THE CITY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE CITY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER.

4.0 SUBMISSION OF PROPOSALS

- 4.1 Proponents should submit their Proposals in writing on or before the time and date specified in the bottom row of the table in Section 2.1 above (the "Closing Time").

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PART A - INFORMATION AND INSTRUCTIONS

- 4.2 Each Proponent should submit its electronic Proposal in an envelope clearly marked with the Proponent's name and the RFP title and number ("Selection of Non-Profit Operator for Marpole Place; PS20150078") to the following address:

City of Vancouver
Supply Management
453 West 12th Avenue
Vancouver, British Columbia
Canada, V5Y 1V4

Notwithstanding the foregoing, envelopes submitted by courier or otherwise in-person should be delivered to:

Information Desk, Main Floor Rotunda,
Vancouver City Hall
453 West 12th Avenue
Vancouver, British Columbia
Canada, V5Y 1V4

- 4.3 To be considered by the City, a Proposal must be submitted under the cover of a Proposal Form, completed and duly executed by the relevant Proponent, including Appendix 1 thereto.
- 4.4 Proposals must not be submitted by facsimile or email.
- 4.5 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.
- 4.6 City requests that one (1) electronic copy (on a CD, flash drive, memory stick or similar medium) of each Proposal (or amendment) be submitted.
- 4.7 Deliberately omitted.
- 4.8 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 4.9 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.
- 4.10 Unnecessarily elaborate Proposals are discouraged. Proposals should generally be limited to the items specified in Part B of the RFP.
- 4.11 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium solely for the purpose of submitting a joint Proposal in response to the RFP, provided that they disclose the names of all members of the consortium and all members complete and execute a Proposal Form (Part C). Nonetheless, the City has a strong preference for Proposals submitted by a single Proponent, including a Proponent that would act as a general contractor and use subcontractors as required.
- 4.12 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.
- 5.0 CHANGES TO THE RFP AND FURTHER INFORMATION
- 5.1 The City may amend the RFP or make additions to it at any time.

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- 5.2 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.
- 5.3 Proponents must not rely on any information purported to be given on behalf of the City that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2
- 5.4 An information meeting (the "Information Meeting") will be held to enable Proponents to seek clarification with respect to any aspect of the RFP in a group forum. The details are as follows:
- Date: as specified in Section 2.1 above.
- Time: as specified in Section 2.1 above.
- Location: Meeting Room 5A "W Room"
Woodwards Heritage Building
111 West Hastings, 5th Floor
Vancouver, British Columbia
- 5.5 Potential Proponents are encouraged to read the RFP and submit any questions relating to the RFP to the Contact Person prior to the Information Meeting.
- 5.6 Potential Proponents interested in attending the Information Meeting should pre-register for the Information Meeting by completing and submitting the form contained in Appendix 1 to this Part A, by e-mail to gamaliel.martinez@vancouver.ca, on or before the time and date specified in Section 2.1 above.
- 5.7 The City will in good faith attempt to give accurate oral responses to questions posed during the Information Meeting but Proponents are advised that they may only rely on the written information contained herein or in documents posted to the City's website, as described in Section 5.1 above.
- 6.0 CONTRACT REQUIREMENTS
- 6.1 In addition to addressing the other requirements of Part B hereof, each Proponent should indicate in its Proposal the extent to which the Form of Agreement included as Part D hereof is consistent with its Proposal. If the Proposal is inconsistent with any part of the Form of Agreement, the Proponent should so state and should propose alternative contract language as part of its Proposal.
- 6.2 The term of any Agreement is expected to be 10 years in length, with an option for two (2) additional 5-year extension terms, for a maximum term of 20 years.
- 6.3 Note that the Agreement may require a successful Proponent, if any, to deliver, on each anniversary of the Agreement, a written report to the City detailing the achievement of public service objectives, including but not limited to:
- (a) Hours of operation;
 - (b) Type and range of services provided for the reporting period;
 - (c) Administrative capacity;
 - (d) Financial accountability;
 - (e) Financial viability with evidence of diversified revenue sources; and

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(f) Quality, accessibility and affordability of programs or services.

7.0 EVALUATION OF PROPOSALS

7.1 The City may open or decline to open Proposals in such manner and at such times and places as are determined by the City.

7.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City staff, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine:

- (a) Proponents' skills, knowledge, reputation and previous related experience(s), including experience(s) with the City (if any);
- (b) Proponents' capabilities to meet the City's Requirements (as defined in Part B) as and when needed;
- (c) quality and service factors;
- (d) Proponent's connections with other community service providers, and history of working within the Marpole neighbourhood;
- (e) environmental or social sustainability impacts;
- (f) financial proposal that would include:
 - (i) operational viability; and
 - (ii) Proponents' financial capacity for the project; and
- (g) certain other factors that may be mentioned in Part B or elsewhere in the RFP.

7.3 Notwithstanding the foregoing, preference may be given to Proponents and proposed personnel that demonstrate knowledge and experience in operating similar types of social programs and services, and demonstrate a connection with local communities. Each Proponent should make clear in its Proposal all relevant knowledge and experience, and that of its proposed personnel.

7.4 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.

7.5 The City may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.

7.6 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.

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- 7.7 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. Proponents may be asked to provide financial statements prepared by an accountant and covering at least the prior three years. The City may also request that any proposed subcontractors undergo evaluation by the City.
- 7.8 The City may request that any proposed subcontractors undergo evaluation by the City.
- 7.9 The City is not under any obligation to approve any Proposal and may elect to terminate the RFP at any time.
- 7.10 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.

8.0 SUSTAINABILITY

- 8.1 The City's Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx> align the City's approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the City's commitment to maximize benefits to the environment through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.
- 8.2 Proponents are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Proponent supply materials, and where such materials may cause adverse environmental effects, the Proponent is to indicate the nature of the hazard(s) in its Proposal. Furthermore, the Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate such adverse effects.

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9.0 CERTAIN APPLICABLE LEGISLATION

- 9.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.
- 9.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

10.0 LEGAL TERMS AND CONDITIONS

- 10.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in Appendix 1 to the Proposal Form (Part C). Except where expressly stated in such Appendix 1: (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.
- 10.2 Potential Proponents should review Appendix 1 to the Proposal Form carefully before submitting a Proposal. Among other things, potential Proponents should note that:
- (a) Except for limited duties in respect of the protection of confidential information and the resolution of legal disputes (as fully specified in Appendix 1 to the Proposal Form), the City does not have, and will not have, any legal obligations to a Proponent or to any proposed subcontractor of that Proponent in respect of the RFP or that Proponent's Proposal until such time as an Agreement is entered into with that Proponent.
 - (b) 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.
 - (c) Except only and to the extent that the City is in breach of its duties with respect to a Proponent's confidential information, each Proponent is required to broadly release the City, its officials, its agents and its employees from liability for any losses incurred by the Proponent.
 - (d) Except only and to the extent that the City is in breach of its duties with respect to a Proponent's confidential information, each Proponent is required to broadly indemnify and hold harmless the City, its officials, its agents and its employees from and against losses in respect of any claim or threatened claim against any of them.
 - (e) Except with respect to the City's duties in respect of a Proponent's confidential information, even to the extent the city is found to have breached any duty to the Proponent, if any, the liability of the City, its officials, its agents and its employees to the Proponent will be limited to \$100.
 - (f) With limited exceptions set forth in such Appendix 1 to the Proposal Form, any dispute between the City and a Proponent will be subject to arbitration.
 - (g) All RFP-related documents provided to any Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.

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- (h) The documentation containing any 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.
- (i) The City will treat any Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information, subject, however, to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the City's full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to Council or announcing the results of the RFP to Proponents.
- (j) Proponents must 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 a Proponent at any time (whether before, during or after the RFP process). Furthermore, each Proponent must agree to not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (k) Each Proponent must waive any rights to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and must agree 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.
- (l) Each Proponent must disclose whether any 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 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,in each case such that there could be any conflict of interest or an appearance of a conflict of interest in the evaluation or consideration of the Proponent's Proposal by the City. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (m) Each Proponent must disclose whether any person having an interest (as defined above) is a former official, former employee or former contractor of the City who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (n) Each Proponent must disclose whether the Proponent or 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. The City will evaluate

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each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.

- (o) Each Proponent is required to disclose whether the Proponent is competing for purposes of the RFP with any entity with which it is legally or financially associated or affiliated. Each Proponent must also disclose whether it is cooperating in any manner in relation to the RFP with any other Proponent responding to the RFP. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (p) Each Proponent is required to disclose whether it or any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors: (1) is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; or (2) has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of its Proposal, to influence the outcome of the RFP process. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (q) A Proponent must not disclose or promote any relationship between it and 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. Each Proponent must undertake not to use the name, official emblem, mark, or logo of the City without the express prior written consent of the City.
- (r) 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.

11.0 DEFINITIONS

11.1 In the RFP, the following capitalized terms have the following meanings:

- (a) "Agreement" means the Form of Agreement entered into between the City and a successful Proponent, if any, following the conclusion of the RFP process, which contract is expected to be in substantially the same form as Part D;
- (b) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (c) "Council" means Vancouver City Council;
- (d) "Form of Agreement" means each form of the operating agreement and the lease agreement contained in Part D of the RFP;
- (e) "Operator" means the successful Proponent, if any, selected as the City's operator for Marpole Place with whom the City enters into agreement to undertake and deliver the social services and programs as set out in this RFP;
- (f) "Proponent" means an entity, which is not, by the terms hereof, restricted from submitting a Proposal, and which does submit a Proposal;

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- (g) "Proposal" means a proposal submitted in response to the RFP;
 - (h) "Proposal Form" means the form contained in Part C of the RFP;
 - (i) "Requirements" has the meaning set out in Section 2.1 of Part B.
- 11.2 All other capitalized terms used in the RFP have the meanings given to them elsewhere in the RFP.

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PART A - APPENDIX 1 - INFORMATION MEETING ATTENDANCE FORM

APPENDIX 1 TO PART A
INFORMATION MEETING ATTENDANCE FORM

Re. Request for Proposals No. PS20150078, Selection of Non-Profit Operator for Marpole Place

To acknowledge your intent to attend the Information Meeting and to ensure that you receive the required information, please submit this form to the person identified below in accordance with the RFP:

Gamaliel Martinez
City of Vancouver
Email: gamaliel.martinez@vancouver.ca

Proponent's Name: _____

Address: _____

Key Contact Person: _____

Telephone: _____ Facsimile: _____

E-mail: _____ Incorporation Date: _____

Our company WILL ☐ / WILL NOT ☐ attend the information meeting for Request for Proposals No. PS20150078, Selection of Operator for Marpole Place.

Signature

Name of Authorized Signatory

Email Address

Date

PART B

CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

1.0 BACKGROUND AND PROJECT OVERVIEW

- 1.1 The City has been a leader in supporting socially sustainable communities. This means providing a range of support for the creation, renewal, and maintenance of City facilities for Non-profit Organizations to provide social programs and services. The City will prioritize organizations with social programming aimed at vulnerable groups who have faced barriers based on low-income, ethnicity, disability, age, gender, and/or sexual orientation.
- 1.2 As directed by the Marpole Community Plan (2014) (www.vancouver.ca/marpole) and the City's Corporate Business Plan (2014) (<http://vancouver.ca/files/cov/corporate-business-plan.pdf>), the City aims to support accessible facilities which are critical to ensure the sustainability of the social non-profit sector. Providing space for Non-profit Organizations within proximity to the communities they serve offers multiple benefits including:
- (a) proximity to needed social services;
 - (b) improved access to a cluster of services;
 - (c) enhanced community involvement opportunities;
 - (d) programs that enhance community connectedness; and
 - (e) complete communities with services close-to-home.
- 1.3 Marpole is a vibrant community made up of long-time residents, families, seniors, students and newcomers. Marpole residents have a lower median household income and a higher share of residents considered low income than the rest of Vancouver. The provision of social services within the Marpole neighbourhood for vulnerable populations, such as isolated seniors, newcomers, immigrants, refugees, First Nations and urban Aboriginal community, at-risk youth, and low-income families, is essential.
- 1.4 The work of the City's Social Policy and Projects Department is enabled by the Vancouver Charter (http://www.bclaws.ca/Recon/document/ID/freeside/vanch_01). Non-profit Operators in public amenities benefit from a nominal lease rate and must be a non-profit society registered in British Columbia and in good standing.
- 1.5 For this project, the City envisions entering into an Agreement (in the form of Part D) with a Proponent that will lease and deliver social programs at Marpole Place, as described in Section 1.8, below;
- 1.6 The anticipated term of the Agreement is an initial ten (10) years with the option to extend, at the City's discretion, for two (2) successive 5-year terms, for a maximum term of 20 years.
- 1.7 The Agreement will provide for a nominal rental rate (\$10/year) per lease term for the facility.
- 1.8 The Marpole Place:
- (a) is a City-owned heritage building located at 1305 West 70th Avenue, Vancouver, British Columbia ("Marpole Place") with the following amenities:
 - (i) approximately 1114 m² (12,000 sq. ft.) over three (3) floors;

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Marpole Place Floor Areas (approximate)			
	Heritage	Addition	Total Area
L1	2340	2350	4690
L2	2000	1750	3750
L3	1575	1550	3125
Total Above Ground Area	5915	5650	11565

- (ii) one (1) level of underground parking; and
- (b) is currently unoccupied and undergoing restoration. In collaboration with the successful Proponent, the renewal of the facility is anticipated to be completed by the end of 2017. The successful Proponent would work with the City and the City's contractors to develop a community facility for non-profit use. The City anticipates the lease of Marpole Place to commence in the fall of 2016.
- 1.9 Drawings by William McCreery Architects and additional information about the building are provided for information purposes only.
- 2.0 CITY PROVIDED
- 2.1 Subject to the requirements of the City's Service Level Agreement (as set out in Schedule D to the Form of Agreement in Part D), the terms of the Agreement, and the relevant budget as approved by Vancouver City Council, the City may provide assistance to the successful Proponent with:
- (a) project liaison during the construction and finishing, furnishing, and equipping of the facility;
- (b) development of policies and practice guidelines; and
- (c) program development, staff hiring and orientation.
- 3.0 CITY REQUIREMENTS
- 3.1 General requirements (the "Requirements"):
- (a) organizational structure and status:
- (i) be a registered non-profit society in good standing with the BC Registry Services with an active governing body composed of volunteers, and with by-laws that must include provisions that no board director can be remunerated for being a director and staff members cannot be voting members of the board or executive;
- (ii) have a proven local track record of efficiency, effectiveness and stability as a non-profit society;
- (iii) possess strong governance and a demonstrated ability to uphold lease terms, and demonstrated financial and organizational capacity for managing operational costs, infrastructure and tenant improvements;

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- (iv) must not exclude anyone by reason of religion, ethnicity, gender, age, sexual orientation, language, disability or income;
 - (v) adhere to the BC Human Rights Code and the BC Labour Code as amended from time to time, and as outlined in the City of Vancouver's Supplier Code of Conduct;
 - (vi) meet the minimum insurance requirements set out and in Article 7 of the Form of Agreement (Part D); and
 - (vii) be registered and in good standing with WorkSafeBC (www.worksafebc.ca);
- (b) administrative capability:
- (i) maintain and provide adequate financial records for its program operations upon request of the City;
 - (ii) ability to generate revenue from diverse sources as may be required to sustain operations;
 - (iii) maintain its social service operating and programming expenses in a way that is financially viable and sustainable;
- (c) organizational programming and service delivery:
- (i) have demonstrated success operating similar types of facilities and programs as described in this RFP;
 - (ii) capability and experience to efficiently and effectively provide community benefits for residents of Marpole and Vancouver in general;
 - (iii) capacity to identify and deliver a range of community and social services that will advance City priorities, the objectives of the Marpole Community Plan (2014) and meet the needs of the local community;
 - (iv) support inclusive, affordable, and accessible capacity-building programs and services for vulnerable populations, such as isolated seniors, newcomers, immigrants, refugees, First Nations and urban Aboriginal community, at-risk youth, and low-income families, amongst others;
 - (v) implement processes for setting standards and evaluating the quality of the services and programs being provided;
- (d) community collaboration and partnerships:
- (i) throughout the term of the Agreement provide services in the neighbourhood where the program will be implemented, and establish partnerships and links to existing services; and
 - (ii) maintain throughout the term of the Agreement positive and collaborative relationships with the community, City and other levels of government;
- (e) implement and maintain throughout the term of the Agreement sustainable waste management practices for the operation of the facility.

3.2 Financial requirements:

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- (a) Provide social programs as described in Section 1.0 of this Part B while maintaining long-term financial sustainability pursuant to the following financing terms, which are subject to Council approval:
 - (i) Initial lease term of ten (10) years, with the option to extend at the end of the initial term for two successive 5-year terms; and
 - (ii) a nominal lease rate of \$10.00 fixed for the effective term of the lease.
 - (b) The successful Proponent, if any, may also be eligible to apply for an operational or program grant through the City of Vancouver's Community Services and Direct Social Services Grants Program. Receipt of City grants is not guaranteed, and is conditional upon meeting grant criteria and Vancouver City Council approval each year. Grant application information can be found at <http://vancouver.ca/people-programs/social-and-sporting-event-grants.aspx>.
 - (c) The Proponent will be required to pay for:
 - (i) utilities, a security system for the facility, minor maintenance services, janitorial, operating program, service delivery costs and any other items indicated as the responsibility of the NPO in the Service Level Agreement attached as Schedule D to the Agreement (see Part D hereto);
 - (ii) the costs of any programs and services, including the costs of administration of such programs and services, which it provides to third parties; and
 - (iii) any other costs as further described in the Agreement (Part D).
- 3.3 The Requirements stated herein are current as of the date hereof, but they may change or be refined in the course of the evaluation of Proposals or otherwise.
- 3.4 To the extent that the Requirements express estimates of quantities or volumes of goods or services expected to be required by the City, the City cannot offer any assurances that such quantities or volumes will in fact be required.
- 4.0 ITEMS TO BE ADDRESSED IN EACH PROPOSAL**
- 4.1 Each Proposal should have:
- (a) a title page that clearly indicates the name of the Proponent and the general nature of the Proposal;
 - (b) a detailed table of contents; and
 - (c) an executive summary no more than one page long.
- 4.2 Each Proposal should contain a section titled "Technical Proposal." This section of the Proposal should be divided into paragraphs that correspond to the numbered paragraphs of the foregoing Section 3 of this Part B. Furthermore, the Proponent's Technical Proposal should include:
- (a) a section titled "Proponent Overview," which should provide a description of the Proponent's organization, purpose and mission statement, goals, and history of successes, and:

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- (i) a copy of the Proponent's certificate of incorporation, whether the Proponent is incorporated under the Society Act of British Columbia, the Canada Corporations Act of Canada, or a Special Act of Parliament, and supporting documentation showing the Proponent is in good standing with the relevant government registry;
 - (ii) a list of the directors for the organization, including name, address and telephone number; position on board; length of tenure on board; and, whether or not any of the directors receive remuneration for their services to your organization; and
 - (iii) a copy of the Proponent's society constitution and bylaws;
- (b) a section titled "Key Personnel," which should identify educational background, experience, and any relevant professional certifications and/or training for key personnel proposed to perform the Proponent's work, outlining their intended roles in meeting the Requirements and, a comprehensive organization chart that clearly identifies roles, areas of responsibility and communication relationships;

(Note: if Proponents do not have key personnel in place, Proponents then should identify the qualifications and experience that will be sought and what role each person will be playing. If Proponents already have personnel in mind, Proponents should provide details of such personnel's education, training and experience relevant to their roles);

- (c) a section titled "Organizational Experience," which should provide a clear description of the Proponent's relevant knowledge and experience as an organization, including the types of services and programs operated currently and in the past; demographics of the populations served (e.g. neighbourhoods, income, etc.); prior property management experience; and programming information for each of the services currently and historically operated by the Proponent, including:
 - (i) program name;
 - (ii) program address;
 - (iii) number of years such program has been operated by the Proponent, or, if no longer operated by it, the number of years it was operated;
 - (iv) information on the types of services offered in those programs;
 - (v) examples of previous successes in providing social services;

(Note: Proponents should not assume that the City is familiar with their work. Proponents are advised to not to make assumptions, but rather provide details on relevant experience supported by success stories.);

- (d) a section titled "References," which should provide names and contact information (telephone number and email address) for at least three (3) references from organizations/service providers with whom the Proponent has done related work in the past;

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- (e) a section titled “Subcontractors,” which must list all subcontractors the Proponent proposes to use in carrying out its work under an agreement. If the Proponent is selected to enter into an agreement with the City, the Proponent may be limited to using the subcontractors listed in its Proposal. If the City objects to a subcontractor listed in a Proposal, the City may permit a Proponent to propose a substitute subcontractor acceptable to the City;
- (f) a section titled “Program,” which should include:
 - (i) a description of how the Proponent will determine the needs of population(s) who may be accessing services, and how your organization will meet these needs through your proposed programming and related services;

(Note: Proponents should provide a description of the community needs, social problems and/or issues your service/program, will address, and how;
 - (ii) details about the types of programming and services being proposed (e.g. services provided, target population(s), hours of programming);
 - (iii) a description of how the proposed service(s)/program(s) reduce the effects of disadvantage;
 - (iv) a description of the steps the Proponent will take to make the service(s) or program(s) accessible/relevant to potential program participants (e.g. age friendly, accessible to people who speak languages other than English);
 - (v) a description of the role volunteers will play, if any, in supporting the proposed programs at Marpole Place, including the number of volunteers, and their roles.
- (g) a section titled “Community Collaboration and Partnerships,” which should include:
 - (i) a description of how the Proponent intends to participate in positive and collaborative relationships with the community, the City, and other levels of government; include examples of past experiences that demonstrate previous work with community groups, local and other levels of government, and the results of such work. Describe the specific communities or neighbourhoods worked with (communities can also be “communities of interest,” such as parents of young children, seniors, etc.);
 - (ii) a description of the Proponent’s existing and proposed role as a community service provider in the Marpole neighbourhood, including describing how the Proponent intends on establishing partnerships and links to existing community services;
 - (iii) a description of the Proponent’s experience, if any, in collaborating with other social service providers for planning and coordination of service delivery within the Marpole neighbourhood, or of similar collaboration experience with local service providers in the neighbourhood in which the Proponent currently works; and
- (h) make reference to the Requirements as appropriate, including cross-referencing the “Technical Proposal” section where appropriate;

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- (i) 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 depart from the Requirements. Thus the Proponent should include a section titled "Requirements Deviations and Variations," in which the Proponent should note proposed deviations or variations from the Requirements;
 - (j) the City will consider proposals that include collaborative partnership models for delivering social services from Marpole Place. This could include sub-leasing part of the building to another non-profit organization to provide complementary services.
- 4.3 Each Proposal should contain a section titled "Budget," which should contain full details of the Proponent's proposed operating budget. This Budget section should include the following information:
- (a) copies of the last three (3) years' audited financial statement(s);

(Note: financial statements will be a crucial part of the evidence that a Proponent has the financial capability to run the facility. Therefore, if a Proponent has had financial difficulty in the past, explain how these difficulties were overcome.);
 - (b) evidence of the Proponent's demonstrated success in capital fundraising;

(Note: provide examples of previous fundraising experience. Include details that demonstrate the ability to successfully raise funds as needed. What was done? How much was spent on the fundraising campaign, and how much was raised?)
 - (c) a description of how the Proponent is prepared to meet the maintenance requirements as outlined in the Service Level Agreement attached as Schedule D of the Form of Agreement (see Part D);
 - (d) a section titled "Operating Budget", which should contain full details of the Proponent's proposed operating budget, including:
 - (i) a complete list of anticipated operating expenses, including, but not limited to, allocations for: staffing; insurance; program costs; utilities; repair and maintenance; building reserve allocation; and, administration costs including contingency/emergency reserve funds;
 - (ii) a complete list of the Proponent's anticipated revenue streams; and
 - (iii) any financial assumptions;
 - (iv) other information the Proponent deems relevant and necessary to include;
 - (e) responses to 3.3(d) should be completed in the form of Appendix 2 to Part B.
- 4.4 Each proposal should contain a section titled "Other Information," which should provide the following Proponent information:
- (a) a copy of the Proponent's valid City of Vancouver business license or a Metro West Inter-municipal Business License, as may be applicable;

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PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

- (b) the City's Certificate of Existing Insurance in the form of Appendix 3 to Part B duly completed and signed by the Proponent's insurance agent or broker as evidence of the Proponent's existing insurance;
 - (c) a letter from the Proponent's insurer indicating whether (and, if not, then to what extent) the Proponent will be able to comply with the insurance requirements set out in Article 7 of the Form of Agreement (Part D) should the City enter into Agreement with the Proponent;
 - (d) a copy of the Proponent's updated WorkSafeBC clearance letter;
 - (e) the City is committed to environmental and socio-economic sustainability and therefore, the Proponent should describe the environmental aspects of its Proposal, in particular provide:
 - (i) a description of a proposed waste management plan to divert as much waste as possible from the landfill or incinerator through separation of waste streams, composting, etc.;
 - (ii) a description of a proposed 'green' janitorial cleaning program that would use third party eco-certified cleaning products and employ other ways of reducing the need for cleaning products;
 - (iii) a duly completed Declaration of Supplier Code of Conduct Compliance in the form of Appendix 4 to Part B;
 - (f) notwithstanding any provision hereof, a section titled "Deviations and Variations," in which the Proponent should:
 - (i) note proposed deviations or variations from the terms and conditions set out in the RFP or from the Requirements, even if such deviations or variation are also noted elsewhere in the Proposal;
 - (ii) detail proposed amendments to the Form of Agreement set out in Part D of this RFP; or
 - (iii) if there are no proposed amendments to the RFP, Requirements, or Form of Agreement, the Proponent must state that its Proposal is fully consistent with the RFP, Requirements and Form of Agreement;
- 4.5 If, in addition to proposing services which meet the Requirements, the Proponent wishes to offer an alternative or alternatives, the alternative solution(s) should be submitted separately as an appendix within the Proposal. Any pricing impact of the alternative solution(s) should be provided separately in the appendix.
- 4.6 Each Proponent should note Section 9 of Appendix 1 to Part C and should include in its Proposal a section entitled "Conflicts; Collusion; Lobbying" as necessary.
- 4.7 The sections of each Proposal should be arranged in the order in which they are referred to in this Part B. Proponents should avoid creating additional section headings.
- 4.8 Each Proposal must be submitted under the cover of a completed Proposal Form (Part C), including Appendix 1 thereto.

APPENDIX 1 TO PART B PROJECT DESCRIPTION & DRAWINGS

The attached are the project drawings referred to in Part B, Section 1.9.

BACKGROUND/CONTEXT

The City of Vancouver's Marpole Place facility comprises two separate wings - former Fire Hall No. 22, a wood frame Heritage 'B' building dating from 1924, and a steel frame addition dating from 1985. The two wings are linked by an exterior exit stair. Marpole Place functioned as a popular neighbourhood house prior to a significant flood in December 2013. As a result, the building interior was gutted including removal of all insulation and drywall, and fixtures and fittings. The building remains vacant today. Insurance funds will be used to restore the base building interior, replacing like with like, except for code required upgrades. In addition, capital funds will be used to enhance the building. The focus of the current project is the restoration and regeneration of the base building for use in future by a Non-Profit tenant.

BUILDING STATISTICS

Civic Address: 1305 West 70th Ave
Year of Construction: Wood frame Fire Hall 1924; Steel frame Addition 1985
Floor Area: 12,000 square feet above grade
Number of Storeys: Three
Levels of Underground Parking: One
Type of Use: Class 'A' Assembly

HISTORIC CONTEXT

The Heritage 'B' wood frame Fire Hall No. 22 that forms one half of Marpole Place was built in 1924. In 1977 a new fire hall No. 22 was built on West 59th Ave., and the former fire hall became available for adaptive reuse. In 1983 the original fire hall was renovated for community use by architect William McCreery. The building still possesses the original slap dash stucco, and wood frame windows. In 1985 Mr. McCreery designed a stucco clad steel framed addition to the fire hall. A building envelope restoration was undertaken on this component of the building in 2012 with the replacement of the metal roofing, wall cladding, and balconies.

CURRENT CONDITION

Marpole Place was gutted following a flood in December 2013, and has been vacant since that time. All exterior insulation and drywall was removed from the building interior, along with all fixtures and fittings including washroom fixtures and lighting fixtures. The existing kitchen was dismantled, and the stainless steel countertops and appliances were placed in storage for reuse in the building restoration. All floor coverings were removed. The building is essentially an empty shell with the exterior sheathing, cladding, and fenestration intact.

DRAWINGS

The drawing documents referred to in this Appendix 1 to Part B are available at the following FTP site:

Use **Google Chrome** and go to: <https://webtransfer.vancouver.ca>

The user ID is: ps20150078dl@coveftp01
The password is: cran7SWe (the password is case sensitive)

APPENDIX 2 TO PART B
OPERATING EXPENSES AND REVENUE PROJECTIONS FORM

Refer to file Microsoft Excel file name

“PS20150078 – Appendix 2 – Operating Expenses and Revenue Projections Form”

posted on the City’s website.

APPENDIX 3 TO PART B
CERTIFICATE OF EXISTING INSURANCE

The attached insurance certificate is the City's Certificate of Existing Insurance referred to in Part B, Section 4.4(b), which should be completed by the Proponent's insurer and submitted by the Proponent together with a letter from the Proponent's insurer as described in Part B, Section 4.4(c).



**CERTIFICATE OF EXISTING INSURANCE
TO BE COMPLETED AND APPENDED TO THE PROPOSAL/TENDER**

Section 2 through 8 – to be completed and executed by the Insurer or its Authorized Representative

1. **THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.

2. **NAMED INSURED** (must be the same name as the proponent/bidder and is either an individual or a legally incorporated company)

BUSINESS TRADE NAME or DOING BUSINESS AS

BUSINESS ADDRESS

DESCRIPTION OF OPERATION

3. **PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)**

INSURER _____	Insured Values (Replacement Cost) -
TYPE OF COVERAGE _____	Building and Tenants' Improvements \$ _____
POLICY NUMBER _____	Contents and Equipment \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____

4. **COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**

Including the following extensions:	INSURER _____
✓ Personal Injury	POLICY NUMBER _____
✓ Property Damage including Loss of Use	POLICY PERIOD From _____ to _____
✓ Products and Completed Operations	Limits of Liability (Bodily Injury and Property Damage Inclusive) -
✓ Cross Liability or Severability of Interest	Per Occurrence \$ _____
✓ Employees as Additional Insureds	Aggregate \$ _____
✓ Blanket Contractual Liability	All Risk Tenants' Legal Liability \$ _____
✓ Non-Owned Auto Liability	Deductible Per Occurrence \$ _____

5. **AUTOMOBILE LIABILITY INSURANCE** for operation of owned and/or leased vehicles

INSURER _____	Limits of Liability -
POLICY NUMBER _____	Combined Single Limit \$ _____
POLICY PERIOD From _____ to _____	<i>If vehicles are insured by ICBC, complete and provide Form APV-47.</i>

6. ☐ **UMBRELLA OR** ☐ **EXCESS LIABILITY INSURANCE** **Limits of Liability (Bodily Injury and Property Damage Inclusive) -**

INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Self-Insured Retention \$ _____

7. **PROFESSIONAL LIABILITY INSURANCE**

INSURER _____	Limits of Liability
POLICY NUMBER _____	Per Occurrence/Claim \$ _____
POLICY PERIOD From _____ to _____	Aggregate \$ _____
	Deductible Per Occurrence/Claim \$ _____

If the policy is in a "CLAIMS MADE" form, please specify the applicable Retroactive Date: _____

8. **OTHER INSURANCE**

TYPE OF INSURANCE _____	Limits of Liability
INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____
TYPE OF INSURANCE _____	Limits of Liability
INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

PRINT NAME OF INSURER OR ITS AUTHORIZED REPRESENTATIVE, ADDRESS AND PHONE NUMBER

Dated _____

APPENDIX 4 TO PART B
DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE

Purpose: All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the 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>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest or quotation to the City, or have a plan in place to comply within a specific period of time. The City reserves the right to determine an appropriate timeframe in which suppliers must come into compliance with these standards. To give effect to these requirements, an authorised signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorised 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 in the table below (*include all violations/convictions that have occurred in the past three years as well as plans for corrective action*).

Section of SCC / title of law	Date of violation / conviction	Description of violation / conviction	Regulatory / adjudication body and document file number	Corrective action plan

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: _____

REQUEST FOR PROPOSALS NO. PS20150078
SELECTION OF NON-PROFIT OPERATOR FOR MARPOLE PLACE
PART C - PROPOSAL FORM

PART C
PROPOSAL FORM

RFP No. PS20150078, Selection of Non-Profit Operator for Marpole Place (the "RFP")

Proponent's Legal Name: _____
"Proponent"

Proponent's Doing-Business-As Name (if applicable): _____

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____ Facsimile: _____

E-mail Address: _____

Dunn & Bradstreet No.: _____ GST No.: _____

The Proponent, having carefully examined and read the RFP, including all amendments and addenda 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 agreed to the Legal Terms & Conditions attached as Appendix 1 hereto and has separately executed such Appendix 1.

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

APPENDIX 1 TO PROPOSAL FORM

LEGAL TERMS AND CONDITIONS

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 1 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 1, 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 as a result of the RFP.
- (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 1), 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 that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20150078, 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 1 (except only Sections 7, 8.2 and 11 of this Appendix 1, 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

REQUEST FOR PROPOSALS NO. PS20150078
SELECTION OF NON-PROFIT OPERATOR FOR MARPOLE PLACE
PART C - APPENDIX 1 - LEGAL TERMS AND CONDITIONS

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 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 1, 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 1, 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))

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- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process,
- (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 1, 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 1), 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 1, 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 1 will:
 - i. bind the City, the Proponent and the arbitrator; and
 - ii. survive any and all awards made by the arbitrator; and

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- (c) The Proponent will bear all costs of the arbitration.

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 full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to the Vancouver City Council on the proposal results or announcing the results of 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,

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

- (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 a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

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 a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

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 a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

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 a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

10 NO PROMOTION OF RELATIONSHIP

The Proponent must not disclose or promote any relationship between it and 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. The Proponent undertakes not to use the name, official emblem, mark, or logo of the City, including without limitation, "City of Vancouver", "Vancouver Police Board", "Vancouver Public Library",

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“Vancouver Park Board”, “Vancouver Board of Parks and Recreation”, or any other reference to any of the foregoing, without the express prior written consent of the City.

11 GENERAL

- (a) All of the terms of this Appendix 1 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 1 will not affect the validity or enforceability of any other provision of this Appendix 1, 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.
- (d) The Proponent consents to the City contacting any references named by the Proponent in the Proposal.

AS EVIDENCE OF THE PROPONENT’S INTENT TO BE LEGALLY BOUND BY THIS APPENDIX 1, THE PROPONENT HAS EXECUTED AND DELIVERED THIS APPENDIX 1 AS AN INTEGRAL PART OF ITS PROPOSAL FORM IN THE MANNER AND SPACE SET OUT BELOW:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

PART D
FORM OF AGREEMENT

Attached is the Form of Agreement referred to in the RFP.

While the Form of Agreement is presented in its substantial form, the City envisions finalizing the terms with a successful Proponent, if any.

Proponents should clearly state their deviations or variations, if any, to the terms of the lease agreement, the Service Level Agreement (Schedule D to the Form of Agreement), or both, as set out in Part B, Section 4.4(f).

THIS AGREEMENT is made as of the _____ day of _____, 20____.

BETWEEN:

CITY OF VANCOUVER, a municipal corporation with offices
at 453 West 12th Avenue, in the City of Vancouver, in the
Province of British Columbia, V5Y 1V4

(the "Landlord")

AND:

<🏠 FULL LEGAL NAME>
(Society Registration No. <🏠>)
with offices at <🏠 address>

(the "Tenant")

PREMISES:

Name of Facility: Marpole Place

Civic Address: 1305 70th Ave. W., Vancouver

PID/
Legal Description: 006-926-959
Lot D of Lot 39 Block B District Lots 319, 323 and 324 Plan 20015,

TERM: Ten (10) Years

RENT: \$100.00 payable on the first day of the Term

OPTION(S) TO RENEW: Two additional five (5) year renewal terms

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WITNESSES THAT WHEREAS:

- A. The Landlord is the owner of all and singular those lands and premises situate in the City of Vancouver, in the Province of British Columbia, having a civic address of 1305 70th Ave. W., Vancouver, and legally described as:

Parcel Identifier Number: 006-926-959

Lot D of Lot 39 Block B District Lots 319, 323 and 324 Plan 20015,

which lands and premises are hereinafter called the “**Building**” or the “**Premises**”;

- B. The Tenant was the successful proponent in a public Request For Proposals issued by the Landlord for tenancy of the Premises in order to provide social programs and services;

- C. The Premises are subject to the following liens, charges and encumbrances registered at the Land Title Office all of which are collectively referred to as the “**Prior Encumbrances**”:

Charges, Liens and Interests:

[TBD]

- D. The Landlord's City Council, by resolution made at its meeting the <[redacted]> day of <[redacted]>, 20<[redacted]>, resolved to lease the Premises to the Tenant upon the terms and conditions hereinafter set out.

NOW THEREFORE in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease the Premises unto the Tenant and the Tenant does hereby take and rent the Premises upon and subject to the conditions set out hereunder.

ARTICLE I

Section 1.01 - Demise and Term

Subject to the Prior Encumbrances and in consideration of the rents, covenants and conditions herein on the part of the Tenant to be performed and observed, the Landlord hereby leases the Premises to the Tenant to have and to hold the same for and during the term of <[redacted]> commencing on the <[redacted]> day of <[redacted]>, 20<[redacted]> and expiring at 11:59 p.m. on the <[redacted]> day of <[redacted]>, 20<[redacted]> (the “**Term**”).

Section 1.02 - Early Termination by Landlord

Not so as to limit the Landlord's abilities as specified elsewhere in this Agreement, the Landlord may terminate this Agreement if any of the following events occurs:

- (a) The Tenant has failed to comply with Section 3.01 of this Agreement within thirty (30) business days of a notice in writing from the Landlord that it is in breach of Section 3.01; or
- (b) with the Tenant's consent,

and the Landlord shall not pay to the Tenant any compensation due to such termination.

Section 1.03 - Early Termination by Tenant

The Tenant may terminate this Agreement if the Tenant intends to or has ceased to use the Premises for the Permitted Use (as defined below) upon giving the Landlord three (3) months prior written notice of such termination.

The Tenant shall not pay to the Landlord any compensation due to early termination as permitted under this Agreement.

Section 1.04 - Rent

Yielding and paying therefore in advance One Hundred Dollars (\$100.00) (the "**Rent**") payable on the first day of the Term. The Rent together with any additional rent payable by the Tenant is referred to as "rent" in this Agreement.

Section 1.05 - Payments Generally

All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Agreement shall be:

- (a) paid to the Landlord by the Tenant in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any setoff, compensation or deduction whatsoever at the office of the Landlord's Director of Real Estate Services specified in Section 15.01 or such other place as the Landlord may designate from time to time in writing to the Tenant;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Landlord may see fit; and
- (d) deemed to be rent, in partial consideration for which this Agreement has been entered into, and shall be payable and recoverable as rent, such that the Landlord shall have all rights and remedies against the Tenant for default in making any such payment which may not be expressly designated as rent as the Landlord has for default in payment of rent.

Section 1.06 - Utilities, Janitorial, Maintenance and Repairs

The arrangements concerning the utilities, janitorial, maintenance and repairs as of the date of this Agreement are contained in Schedule B attached hereto (the "**Service Level Agreement**"). The Service Level Agreement may be amended in writing from time to time by the Landlord and the Tenant by mutual agreement.

The Tenant shall pay all charges, rates and levies on account of utilities and other services provided to the Premises, including heat, electricity, gas, water, sewer, garbage and recycling collection, telephone, cablevision, internet, all other costs related to security systems monitoring and servicing and all other expenses and outgoings relating to the Premises immediately when due and, upon request, provide the Landlord with receipts evidencing such payment, unless otherwise expressly indicated in the Service Level Agreement.

The Tenant shall keep and maintain the Premises good repair as would a reasonable and prudent owner of such premises, reasonable wear and tear and structural elements or defects excepted and in a sanitary, neat, tidy and safe condition and free from nuisance at all times.

The Landlord shall have access to the Premises in order to inspect them during normal business hours. The Landlord shall provide the Tenant with written notice of any repairs which, in accordance with Schedule B, the Landlord requires the Tenant to make to the Premises. The Tenant shall make such repairs in accordance with such notice. If the Tenant fails to promptly commence repairs and diligently prosecute same to completion after receipt of notice from the Landlord requiring repairs, then the Landlord may carry out or cause to be carried out such repairs on the provision of reasonable notice to the Tenant in a manner so as to cause the least reasonably possible disruption to the Tenant, the costs of which shall be payable by the Tenant, and the Landlord and its employees, agents, contractors and subcontractors, shall not be liable to the Tenant for any inconvenience, annoyance, disruption, loss of income or liability suffered or incurred by the Tenant by reason of the Landlord effecting such repairs unless caused by the negligence of the Landlord or those for whom the Landlord is responsible in law.

Section 1.07- Common Area and Other Operating Costs - Intentionally Deleted

Section 1.08- Use of Premises

The Tenant shall not use or occupy, nor suffer or permit the use of the Premises or any part thereof for any purpose other than:

- (a) the operation of social programs and services in accordance with the mandate and public service objectives established by the Tenant and attached hereto as Schedule D (the **"Tenant's Mandate and Public Service Objectives"**) together with such amendments to the same that are, from time to time, approved by the Landlord in writing and for all purposes necessarily incidental to the operation of the same;
- (b) in accordance with the occasional third party use policy attached hereto as Schedule C (the **"Occasional Third Party Use Policy"**); and
- (c) that permitted by the applicable zoning for the Premises,

(collectively the **"Permitted Use"**).

Without limiting the generality of the foregoing, the Tenant shall not at anytime suffer, permit or allow any person to occupy the Premises for residential purposes.

The Tenant shall not use, or suffer or permit the use of, any part of the Premises in such a manner as to cause, suffer or permit any annoying noises or offensive odours to emanate from any part of the Premises.

By agreeing to the Tenant using the Premises for the Permitted Use, the Landlord is agreeing as the owner of the Premises only and is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Permitted Use is a permitted use under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto and other relevant by-laws. Nothing in this Section 1.08 affects the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 10.01 of this Agreement.

Section 1.09 - Interest on Arrears - Intentionally Deleted

Section 1.10- Security Deposit - Intentionally Deleted

Section 1.11 - Taxes - Intentionally Deleted

Section 1.12 - Goods and Services Tax

The Tenant shall pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments which are from time to time payable by the Tenant or the Landlord as a result of or that would not be payable but for the rights and obligations contained in this Agreement, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Tenant to the Landlord. Any loss, costs, charges and expenses which relate to such taxes, rates, levies and assessments suffered by the Landlord may be collected by the Landlord as additional rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

Section 1.13 - Rent Review - Intentionally Deleted

Section 1.14 - Amalgamation, Sponsorship, Naming, Renaming and Signage

The Tenant shall, effective from the date hereof:

- (a) not amalgamate with any other body, without first receiving the Landlord's prior written approval, which approval may not be unreasonably withheld;
- (b) not sell, transfer, assign or otherwise permit the naming of the Premises or any portion thereof without the Landlord's prior written approval, which approval may be arbitrarily withheld;
- (c) in connection with the naming of all or any portion of the Premises, comply with any policy adopted by the Landlord's Council relating to the naming of and signage (including without limitation, flags and banners) regarding all or portions of lands and/or premises owned, leased or otherwise controlled by the Landlord in force at the time of the proposed naming; and
- (d) without limiting the generality of anything contained in this Section 1.14, the Tenant shall not disclose or promote its relationship with the Landlord in any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials in a manner which could suggest or create an association, express or implied, between the Tenant and the Landlord without the express prior written consent of the Landlord, which may be arbitrarily withheld.

Section 1.15 - Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or its officers, employees or agents as to:

- (a) the state of repair of the Premises;
- (b) the suitability of the Premises for any business, activity or purpose whatever; or
- (c) the suitability of the Premises for use by the Tenant.

Section 1.16 - Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such audits, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the state of repair of the Premises; and
- (b) the suitability of the Premises for use by the Tenant;
- (c) and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

Section 1.17 - Excess Rent

Notwithstanding any other provision in this Agreement, and at the Landlord's option, if as a result of any assignment, sublease, setting over, or otherwise parting with possession of the Premises or letting any third party into possession of the Premise the Tenant directly or indirectly receives from the assignee, subtenant or occupant (collectively referred to herein as the "Transferee") any payment, fee or any other consideration, whether in the form of cash, negotiable instrument, goods, services or in any other form whatsoever, but excluding any payment, fee or any other consideration received pursuant to the Occasional Third Party Use Policy (the "Consideration") which is in excess of the Rent or any other amount payable by the Tenant to the Landlord under this Agreement then such Consideration will be deemed to be and will be rent payable to the Landlord under this Agreement, payable at the same time as such Consideration is payable by the Transferee to the Tenant.

ARTICLE II

Section 2.01 - No Damage

The Tenant shall not suffer, cause nor permit any damage or injury to the Premises other than reasonable wear and tear.

Section 2.02 - Snow Off Sidewalks

The Tenant covenants that it will keep adjacent sidewalks clear of snow and ice to comply with the requirements of the Street and Traffic By-law of the City of Vancouver and that it

will indemnify and save harmless the Landlord from all costs, loss, damages, compensation and expenses suffered by the Landlord and sustained or caused by the Tenant's failure to remove snow and ice from the sidewalks, provided that if the Tenant does not remove snow and ice as required by the Street and Traffic By-law, the Landlord may clear the sidewalks and the cost of such removal shall be paid by the Tenant to the Landlord.

Section 2.03 - Alterations

The Tenant shall not carry out or cause to be carried out any additions, renovations or alterations to the Premises or redecoration of the Premises or erections on the Premises ("**Alterations**") without the Landlord's prior written consent and in the giving of such consent the Landlord may attach whatever conditions, directions, stipulations, prohibitions or deadlines as it deems appropriate and the same shall be conditions of this Agreement. All such works shall be wholly at the Tenant's expense but shall be the Landlord's absolute property except to the extent that the same may be reasonably categorized as trade fixtures.

The Tenant will obtain, at its sole expense, any and all permits, approvals and authorizations from any governmental authority, including the City of Vancouver, which may be required to undertake the Alterations. The Tenant shall be solely responsible for all claims and/or liabilities arising from or relating to any bodily injury or death, property damage or other loss or damage arising from the Alterations.

By consenting to any Alterations, the Landlord is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Alterations are permitted under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto, the City of Vancouver Building By-law No. 6134 and amendments thereto, and other relevant by-laws. No consent given by the Landlord (and no failure to enforce this section of this Agreement) will affect the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 9.01 of this Agreement.

Section 2.04 - Liens and Encumbrances

In connection with all labour performed in, or materials supplied for, the making, erection, installation or alteration of any work or installations made by or for the Tenant in the Premises, the Tenant will comply with all the provisions of the *Builders Lien Act*, SBC 1997, c.45, as amended or substituted from time to time (the "*Builders Lien Act*"), and other statutes from time to time applicable thereto, including any provision requiring or enabling the retention of any sum as a holdback.

The Tenant will not create any mortgage, security agreement or other encumbrance in respect of any of its leasehold improvements or trade fixtures or permit any such mortgage, security agreement or other encumbrance to attach to the Premises.

If and whenever any builders lien or other lien for work, labour, services or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable, or claims therefor arise or are filed or any such mortgage, security agreement or other encumbrance attaches to the title to the Premises, the Tenant will, within fifteen (15) days after receipt of notice thereof, procure the discharge thereof, including any certificate of pending litigation or other notation or charge registered in respect of any lien, by payment or giving security or in such other manner as may be required or permitted by law. Provided however, that in the event of a bona fide dispute by the Tenant of the validity or correctness of any claim for any

such lien, the Tenant will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct. This section shall not prevent the Tenant mortgaging or encumbering its chattels, inventory, trade fixtures or equipment which are not fixtures.

Pursuant to Section 3(2) of the *Builders Lien Act*, the Landlord may file in the Land Title Office notice of its fee simple interest in the land or legal parcel on which the Premises are located, as is required by law to ensure that the Landlord's title does not become charged with liens related to this Agreement.

ARTICLE III

Section 3.01 - Delivery of Facility Profile to the Landlord by the Tenant

On or before December 31st of each year of the Term, the Tenant shall deliver to the Landlord's Director of Social Policy and Projects, in a form and content acceptable to the Landlord, the following:

- (a) financial statements of the Tenant approved by the directors of the Tenant for the previous year of the Term prepared at the Tenant's expense by an accounting professional. Such statements shall include at a minimum all operating, capital, maintenance reserve and special purpose funds and shall itemize administrative and program costs all of which must have first been approved by the directors of the Tenant;
- (b) a balanced annual budget (including an estimate of all revenues and expenditures as well as an adequate maintenance reserve sufficient to meet its obligations in this Lease) in a form acceptable to the City, which must have first been approved by the directors of the Tenant;
- (c) a summary of activities for the past year demonstrating how the Tenant has fulfilled the Tenant's Mandate and Public Service Objectives;
- (d) a summary of activities planned for the coming year of the Term;
- (e) a current list of directors and officers including their names, addresses and telephone numbers, to the extent permitted by law; and
- (f) the name of the key or main contact person for the Tenant.

Section 3.02 - Delivery of Minutes of Tenant Board Meetings to Landlord

The Tenant shall, on request by the Landlord, provide minutes of its board of directors' meetings to the Landlord to the attention of the Landlord's Director of Social Planning.

ARTICLE IV

Section 4.01 - Limitation of Liability

The Landlord and its officials, officers, employees, agents, contractors, subcontractors, licensees and permittees (collectively, the "**Landlord's Personnel**") shall not, under any circumstances, be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, however caused, that may be suffered or sustained by the Tenant its officers, employees, agents, contractors, subcontractors, licensees, permittees (collectively, the "**Tenant's Personnel**") or by any other person who may be in or about the Premises; or
- (b) any loss or damage of any nature whatsoever, however caused, to the Premises, any property belonging to the Tenant, the Tenant's Personnel, or to any other person while such property is in or about the Premises,

whether in the course of the performance of the Landlord's obligations under this Agreement or otherwise, unless resulting from the negligence of the Landlord or the Landlord's Personnel.

Section 4.02 - Exclusion of Liability

The Landlord and the Landlord's Personnel shall not under any circumstances be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, that may be suffered or sustained by the Tenant or the Tenant's Personnel or any other person who may be in or about the Premises, or any loss or damage of any nature whatsoever to the Premises or to any property belonging to the Tenant, the Tenant's Personnel or to any other person while such property is in or about the Premises:
 - (i) caused by failure, by reason of breakdown or other cause, to supply adequate drainage, or by interruptions of any utility or other services, or by steam, water, rain, snow, or other substances leaking, entering, issuing or flowing onto or into any part of the Premises; or
 - (ii) however caused, if the Landlord or Landlord's Personnel enter upon the Premises in the case of an emergency;
- (b) any loss or damage of any nature whatsoever, however caused, to books, records, files, money, securities, negotiable instruments, papers or other valuables of the Tenant or its officers, employees or agents;
- (c) any business, economic or indirect loss or damage suffered or sustained by the Tenant or the Tenant's Personnel of any nature whatsoever, however caused; or
- (d) any loss which the Tenant is obligated to insure against hereunder or has insured against.

Section 4.03- Indemnification

The Tenant shall indemnify and save harmless the Landlord and the Landlord's Personnel in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by, or any act or omission of, or relating to or arising from the occupation, use and/or possession of the Premises and/or other Landlord property by the Tenant and/or the Tenant's Personnel and/or from any alterations to the Premises, and in respect of all costs, expenses and liabilities incurred by the Landlord and the Landlord's Personnel in connection with or arising out of all such claims, including the expenses of any action or legal proceeding pertaining thereto and the liabilities or obligations incurred or sustained by or imposed upon the Landlord and the Landlord's Personnel in respect of any loss, cost, expense or damage suffered or incurred by the Landlord and the Landlord's Personnel arising from any breach by the Tenant of any of its covenants and obligations under this Agreement.

Without limiting anything else contained in this Agreement, the Tenant shall at all times be liable to the Landlord for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord and/or the Landlord's Personnel sustain any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord's satisfaction and shall indemnify the Landlord and the Landlord's Personnel for any loss they might sustain due in whole or part to such actions, except where such damage or loss was caused by or contributed to by the negligence of the Landlord or the Landlord's Personnel.

Section 4.04 - Notice of Liability Concerns

Forthwith after becoming aware of significant liability concerns regarding the operation of the Premises or any matter relating to the Premises or the use of the Premises, the Tenant shall notify the Landlord in accordance with Section 16.01 of this Agreement.

ARTICLE V

Section 5.01 - Definitions

In this Agreement, the following words and expressions shall have the following meanings:

- (a) **"Environment"** has the meaning given to it in the *Canadian Environmental Protection Act* (Canada) as of the date of this Agreement;
- (b) **"Hazardous Substances"** means any Substance capable of creating harm to people, property and/or the Environment including, without limitation, any flammable liquids, flammable or reactive solids, oxidizers, poisons, gases (compressed, liquefied or dissolved), explosives, radioactive materials, urea formaldehyde, asbestos-containing materials, above or underground storage tanks, compounds known as chlorobiphenyls, polychlorinated biphenyls ("PCBs"), PCB-containing equipment or materials, Pollutants, contaminants, hazardous, corrosive or toxic Substances, or Waste of any kind, including, without limitation, any Substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is prohibited, controlled, regulated or licensed by any federal, provincial or municipal authority;
- (c) **"Medium"** means any land, water or air and includes the Premises;

- (d) **"Pollute"** is a verb which means to Release into or onto any Medium any Substance that:
- (i) alters the physical, biological or chemical nature of that Medium;
 - (ii) alters the capacity of the Medium to support any living thing, whether animal or plant life;
 - (iii) injures or is capable of injuring the health or safety of a person in, on or near the Medium;
 - (iv) injures or is capable of injuring property or any life form in, on or near the Medium;
 - (v) interferes with or is capable of interfering with visibility or the dispersion of light or any photochemical activity within the Medium;
 - (vi) interferes with or is capable of interfering with the normal conduct of business in, on, near or from the Medium;
 - (vii) causes or is capable of causing physical discomfort to a person in, on or near the Medium;
 - (viii) damages or is capable of damaging the Environment; or
 - (ix) is Waste,
- and **"Polluted"** is an adjective, and **"Pollution"** and **"Pollutant"** are nouns, which have meanings that correspond to the meaning contained in this paragraph;
- (e) **"Release"** includes release, spill, leak, pump, pour, dump, abandon, emit, empty, discharge, spray, inoculate, deposit, seep, throw, place, exhaust, inject, escape, leach, dispose, infuse or introduce;
- (f) **"Substance"** has the meaning given to it in the *Canadian Environmental Protection Act* (Canada) as of the date of this Agreement; and
- (g) **"Waste"** has the meaning given to it in the *Environmental Management Act*, S.B.C. 2003, c. 53, as amended or substituted from time to time but if the *Environmental Management Act* is repealed, **"Waste"** has the meaning given to it on the day immediately preceding the repeal of that Act or if that Act is amended so that the term **"Waste"** is no longer used in it, then **"Waste"** has the same meaning as the term which replaces it in that Act.

Section 5.02 - Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or Landlord's Personnel as to:

- (a) the state of repair of the Premises ;
- (b) the suitability of the Premises for any business, activity or purpose whatever;

- (c) the suitability of the Premises for use by the Tenant;
- (d) the existence, nature or extent of any Pollution on or off the Premises ; or
- (e) the need to take any remedial action in relation to any Pollution on or off the Premises.

Section 5.03 - Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such audits, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the state of repair of the Premises;
- (b) the suitability of the Premises for use by the Tenant;
- (c) the existence, nature or extent of any Pollution on the Premises; and
- (d) the need to take any remedial action in relation to any Pollution on or off the Premises;

and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

The Tenant hereby assumes any and all duties, obligations or liabilities under any relevant law in respect of the Premises, including, but not limited to, any costs, expenses or liabilities for any remedial action for any Pollution of the Premises caused by the Tenant during the Term.

Section 5.04 - Release and Indemnification

The Tenant hereby releases the Landlord and its officers, employees and agents from any and all costs, expenses, damages, losses or liabilities that may be incurred or suffered by the Tenant by reason of or resulting from or in connection with or arising in any manner whatsoever out of:

- (a) the Premises not being suitable for use by the Tenant;
- (b) the Premises being, or being found to be at any time, Polluted; or
- (c) the need to take any remedial action and the taking of such action as a result of such Pollution on or off the Premises.

The Tenant shall indemnify, defend and save harmless the Landlord in respect of all claims for bodily injury (including death), property damage or other loss or damage, including damage to property outside the Premises, arising out of or in any way connected with the manufacture, storage, transportation, handling and discharge of Hazardous Substances on or from the Premises by the Tenant or any one for whom the Tenant is responsible in law.

Section 5.05 - Removal of Hazardous Substances

The Tenant shall not bring upon the Premises or any part thereof, or cause or suffer the bringing upon the Premises or any part thereof, any Hazardous Substances and if at any time there shall be any Hazardous Substances upon the Premises or a part thereof as a result of the breach of this covenant, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Article;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord verification of the complete and proper removal of the Hazardous Substances from the Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with the foregoing provisions of this Section 5.05.

Section 5.06 - Breach of Laws Relating to Hazardous Substances

Without limiting the generality of Section 5.05, the Tenant shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence under or a breach of any statutes, by-laws, regulations or orders from time to time enforced relating to Hazardous Substances, and at its own cost and expense, comply with all laws and regulations from time to time in force relating to the Landlord, the Tenant, the activities carried out on the Premises relating to Hazardous Substances and the protection of the Environment and shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence thereunder or a breach thereof and, if the Tenant shall, either alone or with others, cause or suffer the happening of such event, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Section 5.06;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord a report verifying the complete and proper removal thereof from the Premises or, if such is not the case, a report as to the extent and nature of any failure to comply with the foregoing provisions of this Section 5.06.

The Tenant shall, at its own expense, remedy any damage to the Premises caused by such event within the Premises or by the performance of the Tenant's obligations under this Section 5.06 as a result of such occurrence.

If any governmental authority having jurisdiction shall require the cleanup of any Hazardous Substances held, Released, spilled, abandoned or placed upon the Premises or Released into

the Environment from the Premises during the Term, then the Tenant shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work and shall keep the Landlord fully informed and provide to the Landlord full information with respect to proposed plans and comply with the Landlord's requirements with respect to such plans and the Tenant agrees that if the Landlord determines, in its sole discretion, that the Landlord, its property or its reputation is placed in any jeopardy by the requirement for any such work, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant, pursuant to Section 11.07 of this lease.

Section 5.07 - Enquiries Pertaining to Hazardous Substances

The Tenant hereby authorizes the Landlord to make enquiries from time to time of any government or governmental agency with respect to the Tenant's compliance with any and all laws and regulations pertaining to the Tenant, the Tenant's activities on the Premises and the Premises including without limitation laws and regulations pertaining to Hazardous Substances and the protection of the Environment; and the Tenant covenants and agrees that the Tenant will from time to time provide to the Landlord such written authorization as the Landlord may require in order to facilitate the obtaining of such information.

Section 5.08 - Landlord's Inspection of Goods

The Landlord may at any time and from time to time inspect the Tenant's goods upon the Premises and the Tenant's records relating thereto for the purpose of identifying the nature of the goods and the existence or absence of any Hazardous Substances and the Tenant shall assist the Landlord in so doing.

Section 5.09 - Ownership Remains with Tenant

If the Tenant shall bring or create upon the Premises any Hazardous Substances or suffer the bringing or creation upon the Premises of any Hazardous Substances or if the conduct of the Tenant's business shall cause there to be any Hazardous Substance upon the Premises then, notwithstanding any rule of law or equity to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord and notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Premises and notwithstanding the expiry or earlier termination of this Agreement.

Section 5.10 - Environmental Covenants Survive Termination

The obligations of the Tenant in this Article V shall survive the expiry or earlier termination of this lease save only that, to the extent that the performance of those obligations requires access to or entry upon the Premises or any part thereof the Tenant shall have such entry and access only at such times and upon such terms and conditions as the Landlord may from time to time specify; and the Landlord may, at the Tenant's cost and expense, undertake the performance of any necessary work in order to complete such obligations of the Tenant; but having commenced such work, the Landlord shall have no obligation to the Tenant to complete such work.

ARTICLE VI

Section 6.01 Landlord's Insurance

The Landlord, at its sole cost, shall insure the Premises including, without limitation, the fixtures other than trade fixtures, against fire, vandalism and such other perils as may be determined from time to time by the Landlord's Director of Risk Management in her sole discretion. In its sole discretion and at its sole cost, the Landlord may elect to self-insure for all or any of the perils referred to in this Section 6.01.

Section 6.02 Tenant's Insurance

The Tenant shall, without limiting any of its obligations or liabilities under this Agreement, obtain and continuously carry during the term of this Agreement at its own expense and cost, insurance coverage with minimum limits of not less than those specified, as follows:

- (a) commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000) per occurrence or such higher limit of coverage as the Landlord's Director of Risk and Emergency Management may require from time to time and the policy shall:
 - (i) indemnify and protect the Tenant and the Tenant's Personnel against all claims for loss, damage, injury or death to any person or persons and for loss of or damage to the Premises or to any public or private property occurring within or about the Premises or arising by virtue of the Tenant's occupation or possession of the Premises, including that caused by any third party permitted to use the Premises;
 - (ii) contain a cross-liability and severability of interest clause insuring the Tenant, the Landlord, the Landlord's Personnel and the Tenant's Personnel in the same manner and to the same extent as if separate policies had been issued to each and apply with respect to any action brought against one party by the other or by any officer, employee or agent of one party and any breach of a condition of the policy by any party or by any officer, employee or agent of one party shall not affect the protection given by the policy to any other party or to any officer, employee or agent of any party;
 - (iii) name the Landlord, its officials, officers, employees and agents as additional insureds;
 - (iv) include All Risk (Broad Form) Tenant's Legal Liability insurance for an amount equal to the full replacement cost of the Premises, such coverage to include the activities and operations conducted by the Tenant and third parties in the Premises;
 - (v) include blanket contractual liability covering liability arising directly or indirectly out of the performance of this Agreement;
 - (vi) provide for a limit of deductibility not greater than Five Thousand Dollars (\$5,000) or such other limit as the Landlord's Director of Risk and Emergency Management may sanction from time to time; and

- (vii) without limiting anything else contained in this Agreement, adequately protect the Tenant from the actions of the third parties that the Tenant permits to occupy all or a portion of the Premises.
- (b) All Risk (Broad Form) insurance on property of every description and kind owned by the Tenant or for which the Tenant is legally liable or provided by or on behalf of the Tenant (and which is located in the Premises), including, without limitation, furniture, computers, equipment, toys, supplies, appliances, trade fixtures and any display model, project, prototype, tool, instrument and/or device within the Premises in an amount not less than ninety percent (90%) of the full replacement cost thereof. The City of Vancouver shall be added as named insured and loss payee with respect to its insurable interest.

Section 6.03 - General Requirements of Insurance

The following shall apply to all insurance policies:

- (a) the policies shall be with insurers duly authorized to carry on business in the Province of British Columbia, in a form and in amounts satisfactory from time to time and acceptable to the Landlord's Director of Risk Management and shall provide the Landlord with sixty (60) days' prior written notice of cancellation or material change resulting in a reduction of coverage. Notice shall be given to the City of Vancouver, c/o Risk and Emergency Management Division, Attention: Insurance Administrator. Notice must identify the name of the Tenant as set out in this Agreement and the location or address of the Premises;
- (b) neither the providing of insurance by the Tenant in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing shall be held to relieve the Tenant from any other provisions of this Agreement with respect to liability of the Tenant or otherwise;
- (c) the insurance coverage shall be primary insurance as respects the Landlord and any insurance or self-insurance maintained by or on behalf of the Landlord, its officials, officers, employees or agents shall be excess of this insurance and shall not contribute with it; and
- (d) subject to the provisions of this Article VI, the Tenant shall provide at his/their own cost any additional insurance which the Tenant is required by law to provide or which the Tenant considers necessary.

Section 6.04 - Evidence of Insurance

Prior to the commencement of the Term, and from time to time during the Term within ten (10) days after demand by the Landlord, the Tenant will deliver to the Landlord, for each insurance policy the Tenant must obtain under this Agreement, a certificate of insurance, satisfactory to the Landlord, and a certified copy of the policy. If the Tenant fails to deliver to the Landlord any such certificate or policy of insurance within the stipulated time, the Landlord may obtain such insurance, and the Tenant will pay to the Landlord the cost of the premiums on demand by the Landlord from time to time.

ARTICLE VII

Section 7.01 - Termination on Damage or Destruction

If the Premises are substantially damaged or destroyed to the extent that the Premises or a substantial area of the Premises are rendered unusable by the Tenant or convenient access to the Premises cannot be had, all as determined by the Landlord in its sole discretion, the Landlord may, at its option, elect to not rebuild or repair the Premises and may terminate this Agreement and the Tenant's liability for rent will end as of the date of such damage or destruction but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 7.02 - Repair of Damage or Destruction

If the Landlord elects to rebuild or repair the Premises, the Landlord will commence rebuilding or repairing within sixty (60) calendar days of the occurrence of the damage or destruction. If the Landlord does not initiate the rebuilding or repairing within such time period or, having commenced rebuilding or repairing, does not prosecute same to completion with reasonable dispatch, then the Tenant may give the Landlord fourteen (14) calendar days notice of the termination of this Agreement but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 7.03 - Abatement of Rent

In the event of damage or destruction to the Premises to the extent that the Premises or part of the Premises are rendered unusable or convenient access to the Premises cannot be had, which in either case is not caused by the default or negligence of the Tenant or those for whom it is responsible in law, the rent will abate in the same proportion that the area of which the Tenant is deprived bears to the total area as determined in the opinion of the Landlord and such abatement will continue only so long as the Landlord determines its continuance to be reasonable.

ARTICLE VIII

Section 8.01 - Assignment

The Tenant shall not assign its leasehold interest in the Premises or any portion thereof save and except with the prior written consent of the Landlord, such consent not to be unreasonably withheld. If there are personal covenants herein on the part of the Tenant which, in the opinion of the Landlord's solicitors will not run with this Agreement, then the Landlord may withhold its consent to assignment unless the prospective assignee covenants with the Landlord to be bound by such personal covenants as if such covenants had been made between the Landlord and the prospective assignee. In no way will such consent release the Tenant of its personal covenants under this Agreement.

Section 8.02- Subleasing

Other than as permitted by the Occasional Third Party Use Policy attached as Schedule C, the Tenant shall not sublease, license, set over or otherwise part with possession of the Premises or any portion thereof or let any third party into possession of the Premises or any portion

thereof save and except with the prior written consent of the Landlord, which consent the Landlord may unreasonably withhold.

Section 8.03 - Assignment of Sublease Rent

Notwithstanding Section 8.02 hereof, the Tenant hereby assigns to the Landlord all rents and fees payable to the Tenant under any sublease, license or occupation agreement with any third party, which assignment shall supersede any provisions regarding the Tenant in bankruptcy and any claims of the creditors of the Tenant whether by execution, attachment, garnishing order or otherwise provided however the Landlord agrees to refrain from enforcing the said assignment so long as the Tenant shall not be in default in the payment of rent or the performance or observance of its covenants hereunder. Upon the Tenant falling into default in the payment of its rent or the performance or observance of its other covenants hereunder, the Landlord may forthwith direct the sublessee, licensee or such other third party to pay to the Landlord the sublease rent, license fees or other monies as would otherwise be owing to the Tenant from time to time and the payment of such monies to the Landlord shall *pro tanto* discharge the sublessee's, licensee's or other third party's obligations to the Tenant and the Landlord shall apply such monies to the rent and the performance and observance of the Tenant's covenants hereunder notwithstanding any claims on the part of the Tenant's trustee in bankruptcy or the Tenant's creditors, whether by execution, attachment, garnishing order or otherwise. If the sublessee, licensee or other third party fails to abide by the Landlord's directions in this behalf then, at the Landlord's election, the sublease, license or other third party agreement shall cease and determine and the Landlord may forthwith re-enter the subleased, licensed or occupied portion of the Premises and arrange for new occupants thereof whose occupation shall be subject to the provisions of this paragraph.

Section 8.04 - Mortgage of Lease

Under no circumstances whatsoever may this Agreement be mortgaged or otherwise encumbered by way of sublease, assignment or otherwise.

Section 8.05 Management Agreement

Subject to Section 8.01, under no circumstances whatsoever may the Tenant enter into any management agreement or other agreement with another party which licenses, transfers or assigns, temporarily or otherwise, the Tenant's rights and obligations in this Agreement without the Landlord's prior written consent.

ARTICLE IX

Section 9.01 - Bankruptcy

If the Term or any of the goods or chattels of the Tenant are at any time seized or taken in execution by any creditor of the Tenant, or if the Tenant makes a general assignment for the benefit of creditors, or if the Tenant institutes proceedings to have the Tenant adjudicated as bankrupt or insolvent, or if the Tenant becomes the subject of bankruptcy or insolvency proceedings, or if a judgment, decree or order be entered by a court of competent jurisdiction adjudging the Tenant bankrupt or insolvent, or if the Tenant is unable to meet all debts as they fall due for a period of not less than three (3) months, or if the Tenant or its directors shall pass any resolution authorizing the dissolution or winding-up of the Tenant, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any

part of the Tenant's property shall be appointed or applied for by the Tenant or by one or more of the Tenant's creditors, then the Landlord shall be so notified and the then current rent plus an additional three (3) months current rent shall immediately become due and be paid and the Landlord may immediately claim the same together with any arrears of rent and, at the option of the Landlord, the Term is subject to termination forthwith. If the Tenant becomes defunct or amalgamates with any other body without obtaining the prior written consent of the Landlord or if a committee is appointed under the *Patients Property Act*, R.S.B.C. 1996, c.349, as amended or substituted from time to time, to lawfully deal with the Tenant's estate then at the option of the Landlord the Term shall forthwith terminate. If the Tenant surrenders up its certificate of incorporation or otherwise ceases to exist the Term terminates as of such surrender or dissolution. If the Tenant is a natural person, at any time after the Tenant's death the Landlord may terminate the Term upon sixty (60) days notice to any executor or administrator of his estate.

ARTICLE X

Section 10.01 - Statutes and By-laws

The Tenant covenants to promptly and faithfully observe and comply with all federal, provincial or civic statutes, by-laws, regulations and orders now or hereafter which are in force and in effect which touch and concern the Premises or the Tenant's activities within the Premises, including, without limitation, any applicable environmental guidelines, and any amendments thereto, which deal with environmental protection and safety and/or Hazardous Substances. If any such statutes, by-laws, regulations, orders or guidelines are directed at owners, the Tenant shall perform and observe same at his own expense in the place and stead of the Landlord.

Without limiting the generality of the foregoing, the Tenant shall promptly and faithfully observe and comply with:

- (a) all federal, provincial or civic statutes, by-laws, regulations and orders and policies now or hereafter which are in force relating to the Tenant's operation of the Facility and shall provide the Landlord with evidence satisfactory to the Landlord, in its sole discretion, of such compliance on request by the Landlord; and
- (b) the British Columbia *Human Rights Code*, R.S.B.C. 1996, c. 210, as amended or substituted from time to time, which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 10.01.

Section 10.02 - WorkSafeBC Coverage

Not so as to restrict the generality of Section 10.01 of this Agreement, the Tenant shall comply with all applicable requirements of WorkSafeBC ("WCB") including, without limitation, any requirement to procure and carry or cause to be procured and carried and

paid for, at its own expense, full WCB coverage for itself and for all workers, employees, contractors, subcontractors, agents, licensees, permittees, and all others engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises. The Landlord shall have the unfettered right to set off the amounts of the unpaid premiums and assessments for such WCB coverage against any monies owing by the Landlord to the Tenant pursuant to any grant application or otherwise. The Landlord shall have the right to withhold payment of any such monies until the WCB premiums, assessments and/or penalties in respect of the work done and/or service performed have been paid in full.

The Tenant confirms that it is registered and in good standing with the WCB and all assessments have been paid in full as of the date of this Agreement and that it shall throughout the Term continue to be registered and in good standing with the WCB and pay all assessments in full. If requested by the Landlord, the Tenant shall provide the Landlord with the Tenant's WCB registration number and a letter from the WCB confirming that the Tenant is registered in good standing with the WCB and that all assessments have been paid to the date thereof. The Tenant shall indemnify the Landlord and hold harmless the Landlord from all manner of claims, demands, costs, losses, sanctions and penalties and proceedings arising out of or in any way related to unpaid WCB assessments owing from any person or corporation engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the WCB, including penalties levied by the WCB.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 10.02.

Section 10.03 - Vancouver Charter

Nothing contained or implied herein shall prejudice or affect the Landlord's rights and powers in the exercise of its functions pursuant to the *Vancouver Charter*, S.B.C. 1953, c.55, as amended or substituted from time to time, and the rights and powers of the Landlord under all of its public and private statutes, by-laws and regulations, all of which may be as fully and effectively exercised in relation to the Premises as if this Agreement had not been executed and delivered by the Landlord and the Tenant.

Section 10.04 - Performance of Obligations

The Tenant covenants with the Landlord to faithfully and promptly pay the rent and perform and observe its obligations herein.

Section 10.05 - No Registration of Lease

The Landlord is not obligated to deliver this Agreement in registrable form. The Tenant shall not register this Agreement in the Land Title Office.

ARTICLE XI

Section 11.01 - Breach of Covenants

If and whenever:

- (a) any Rent payment or any part thereof is not made by the Tenant on the day appointed for payment thereof; or

- (b) the Tenant is in default in the payment of any money, other than Rent, required to be paid by the Tenant under the terms of this Agreement and such default continues for ten (10) days following any specific due date on which the Tenant is to make such payment or, in the absence of such specific due date, for ten (10) days following notice requiring the Tenant to pay the same; or
- (c) the Tenant defaults in performing or observing any of the provisions of this Agreement other than those requiring payment of money to the Landlord but including, without limiting the generality of the foregoing, failure by the Tenant to comply with any statutes, bylaws, regulations or orders relating to its operation of a Facility, and such default continues for a period of twenty (20) days after notice thereof to the Tenant, except for a default which to be cured with all due diligence would require a longer period, then after such longer period, or if the Tenant fails to proceed promptly and diligently and continuously after the service of such notice to cure same; or
- (d) the Premises are vacated or unoccupied for ten (10) or more consecutive days while the Premises can be used for the Permitted Use, without the consent of the Landlord; or
- (e) the Premises are abandoned by the Tenant; or
- (f) this Agreement is terminated;

then and in every such case, it shall be lawful for the Landlord at any time thereafter without notice or demand, with or without process of law and by forcible entry if necessary, to re-enter into and upon the Premises, and to terminate this Agreement by leaving upon the Premises notice in writing of such termination. If the Landlord terminates this Agreement pursuant to this section, or otherwise as a result of default of the Tenant, there shall immediately become due and owing to the Landlord, in addition to any other sums payable to the Landlord hereunder as damages suffered by the Landlord as a result of the Tenant's breach, the then current month's rent, together with the rent accruing for the remainder of the Term. This provision for notice and termination shall not be construed so as to delay or supersede any specific remedy to which the Landlord may have recourse in this Agreement.

Section 11.02 - Distraint

The Tenant waives and renounces the benefit of any present or future law taking away or limiting the Landlord's rights against the property of the Tenant and, notwithstanding any such law, the Landlord may seize and sell all the Tenant's goods and property, whether within the Premises or not, and apply the proceeds of such sale towards any arrears of rent (including amounts deemed to be rent under this Agreement) and the costs of the seizure and sale. The Tenant further agrees that if it abandons the Premises and any arrears of rent remain unpaid, the Landlord, in addition to any remedy otherwise provided by law, may seize and sell those goods and property of the Tenant that were previously upon the Premises at any place to which the Tenant or any other person may have removed them from the Premises, in the same manner as if such goods and property had remained in, about or upon the Premises.

Section 11.03 - Right to Re-let

If the Landlord becomes entitled to re-enter the Premises the Landlord shall have the right, if it thinks fit, to enter the Premises as the agent of the Tenant either by force or otherwise

without being liable for any prosecution therefor, and as agent of the Tenant to re-let the Premises or any part or parts thereof at the risk of the Tenant and, as agent for the Tenant, to receive the rent therefor and, as agent for the Tenant, to take possession of any furniture, equipment and other property therein and sell the same at public or private sale without notice. Such rent and proceeds from the sale of the furniture, equipment and other properties shall be allocated first to the Landlord's cost of so entering and re-letting, then to interest on amounts due by the Tenant to the Landlord hereunder and unpaid, and then to the payment of such unpaid sums. The balance of such rent and proceeds, if any, may be applied by the Landlord on account of the rent due hereunder to the Landlord.

Section 11.04 - Forfeiture

The Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event the Tenant shall be evicted or dispossessed from the Premises for any cause, statutory or otherwise, or if the Landlord re-enters the Premises following the occurrence of any default by the Tenant hereunder, or if this Agreement is terminated before the expiration date thereof originally fixed herein.

Section 11.05 - Remedies Generally

Mention in this Agreement of any particular right or remedy of the Landlord in respect of the default by the Tenant shall not preclude the Landlord from any other right or remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No right or remedy shall be exclusive or dependent upon any one or more of such rights or remedies independently or in combination, such rights or remedies being cumulative and not alternative. Whenever the Tenant seeks a remedy in order to enforce the observance or performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed or performed, the Tenant's only remedy (except where another remedy is expressly provided herein, in which event the Tenant shall be restricted to that remedy) shall be for such damages as the Tenant shall be able to prove in a court of competent jurisdiction that the Tenant has suffered as a result of a breach (if established) by the Landlord in the observance and performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed and performed. The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Landlord and the Tenant created hereby, the Tenant's use or occupancy of the Premises or any claim for any injury. In the event the Landlord commences any action or proceeding for non-payment of rent, the Tenant agrees not to interpose any counterclaim of any nature or description in any such action or proceeding. In the event of any breach or threatened breach by the Tenant of any of the terms and provisions of this Agreement, the Landlord shall have the right to injunctive relief as if no other remedies were provided herein for such breach. The Tenant hereby expressly waives any right to assert a defence based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein shall bar the Landlord from bringing any subsequent action or proceeding from time to time. If the Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Agreement, whether by a renewal or extension option herein contained or by separate agreement, the Landlord may cancel such option or agreement for renewal or extension of this Agreement, upon written notice to the Tenant.

Section 11.06 - Expenses

If any legal proceeding is brought for recovery of possession of the Premises, for the recovery of rent or because of the breach of any other terms, covenants or conditions herein contained on the part of the Tenant to be kept or performed, the Tenant shall pay to the Landlord as additional rent, upon demand, all costs and expenses incurred therefor (including without limitation, all professional and consultant fees, and all legal fees on a solicitor and his own client basis, disbursements, and all court costs and expenses of any legal proceeding; and the term "proceeding" shall include, without limitation, any arbitration, administrative, governmental, quasi-governmental or any other mediation proceeding and the term "costs" shall include the pro-rata portion of the wages, salaries and all other remuneration of the Landlord's officers and employees reasonably attributed to the matter).

Without limiting the generality of the immediately preceding paragraph or any other provisions of this Agreement, the Tenant shall pay to the Landlord, as additional rent upon demand, all costs and expenses (including, without limitation, those fees, disbursements, costs and expenses set out in the bracketed insert in the immediately preceding paragraph of this Section 11.06) which the Landlord may incur or pay out by reason of, or in connection with:

- (a) any proceeding by the Landlord to terminate this Agreement or for the recovery of possession of the Premises or for the recovery of rent;
- (b) any other proceeding by the Landlord against the Tenant or any indemnitor;
- (c) any distress levied by the Landlord against the Tenant's goods, chattels and inventory or any of them on the Premises for the recovery of rent;
- (d) any default by the Tenant in the observance or performance of any obligations of the Tenant under this Agreement whether or not the Landlord commences any proceeding against the Tenant or any indemnitor;
- (e) any proceeding brought by the Tenant against the Landlord (or any officer, employee or agent of the Landlord) in which the Tenant fails to secure a final judgment against the Landlord;
- (f) any other appearance by the Landlord or Landlord's Personnel as a witness or otherwise in any proceeding whatsoever involving or affecting the Landlord, the Tenant, this Agreement, the indemnity agreement (if any) or the Premises;
- (g) any amendment, modification or change in any of the terms of this Agreement or the indemnity agreement, if any, initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such amendment, modification or change is finally agreed on);
- (h) any renewal, extension, surrender, or release of this Agreement or the indemnity agreement, if any, initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such renewal, extension, surrender or release becomes effective);
- (i) any transfer of this Agreement (and any request or negotiations pertaining thereto, whether or not such transfer is approved and finally agreed on); and

- (j) any Alterations of or to the Premises (and any request or negotiations pertaining thereto, whether or not such Alterations are approved and finally agreed on).

The Tenant's obligations under this Section 11.06 shall survive the expiration or earlier termination of this Agreement.

Section 11.07 - Landlord May Remedy Tenant's Default

If the Tenant fails to pay, when due, any amount required to be paid by the Tenant pursuant to this Agreement, the Landlord, after giving two (2) days' notice in writing to the Tenant, may, but shall not be obligated to, pay all or any part of it. If the Tenant is in default in the performance of any of its covenants or obligations hereunder (other than the payment of rent required to be paid by the Tenant pursuant to this Agreement), the Landlord may from time to time after giving such notice as it considers sufficient (or without notice in the case of an emergency) having regard to the circumstances applicable, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including, without limitation, entering upon the Premises and doing such things upon or in respect of the Premises or any part thereof as the Landlord considers requisite or necessary. All expenses incurred and expenditures attributable to or made (including all employee, overhead and other internal costs) pursuant to this section 10.07, shall be paid by the Tenant to the Landlord as additional rent upon demand. The Landlord shall have no liability to the Tenant or any other person for any claims resulting from any such action, entry or performance of any work by the Landlord upon the Premises.

Section 11.08 - Security Agreement - Intentionally Deleted

ARTICLE XII

Section 12.01 - Vacant Possession

Upon termination of the Term, whether by the passage of time or otherwise, the Tenant shall deliver up vacant possession of the Premises and shall leave the Premises in a sanitary, neat, tidy, safe and empty condition free from all nuisance, debris, rubbish and stock-in-trade and shall ensure that the Premises are to the standard of repair and decoration required of the Tenant pursuant to Article II hereof.

Section 12.02 - Trade Fixtures

- (a) If the Tenant is not in default hereunder at the expiration of the Term, the Tenant shall have the right to remove its trade fixtures from the Premises but shall make good any damage caused to the Premises resulting from the installation or removal thereof.
- (b) If the Tenant fails to remove any of its trade fixtures and restore the Premises as provided in Section 12.02(a), all such trade fixtures shall become the property of the Landlord except to the extent that the Landlord requires removal thereof pursuant to Section 12.02(d).
- (c) If the Tenant abandons the Premises or this Agreement is terminated before the proper expiration of the Term due to a default on the part of the Tenant, as of the moment of such default by the Tenant, all trade fixtures and furnishings of the Tenant (whether or not attached in any manner to the Premises) shall, except to the extent the Landlord requires the removal thereof pursuant to Section 12.02(d) become and be

deemed to be the property of the Landlord, without compensation to the Tenant but without prejudice to any other right or remedy of the Landlord at law or in equity.

- (d) Notwithstanding that any trade fixture is or may become the property of the Landlord, the Tenant shall forthwith remove all or part of the same and shall make good any damage caused to the Premises resulting from the installation or removal thereof, all at the Tenant's expense, should the Landlord so require by notice to the Tenant.
- (e) If the Tenant, after receipt of a notice from the Landlord pursuant to Section 12.02(d), fails to promptly remove any trade fixture in accordance with such notice, the Landlord may enter into the Premises and remove therefrom all or part of such trade fixture and make good any damage caused to the Premises resulting from the installation or removal thereof, without any liability accruing against the Landlord and at the expense of the Tenant, which expense shall forthwith be paid by the Tenant to the Landlord.

Section 12.03 - Overholding

If the Tenant continues to occupy the Premises after the expiration of the Term, and the Landlord shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one month's prior notice in writing.

ARTICLE XIII RIGHT OF ENTRY

Section 13.01 - Landlord's Access to Premises For Showings/Inspection

The Landlord or Landlord's Personnel shall have the right to enter the Premises at any reasonable time (and upon twenty-four (24) hours prior written notice to the Tenant) to examine them or to show them to prospective purchasers, tenants or mortgagees, and to enter the Premises at such other times as mutually agreed between the Landlord and the Tenant (or on reasonable prior notice) to make such repairs as the Landlord may deem necessary or desirable and the Landlord will be allowed to take all required material into and upon the Premises without such entry constituting an eviction of the Tenant in whole or in part nor a breach of the Landlord's obligations. Whenever the Landlord enters the Premises, it shall take reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 13.02 - Landlord's Access to Records

The Landlord may at any reasonable time and upon twenty-four (24) hours written notice to the Tenant enter (or permit governmental authorities to enter) the Premises or any other office of the Tenant's for the purpose of ensuring the Tenant's compliance with this Agreement, including without limitation, by auditing the Tenant's environmental and financial records and by conducting soil, water and other tests, provided that the Landlord takes reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 13.03 - "For Lease/Sale" Signs

During the six (6) months prior to the expiration of the Term, the Landlord may place upon the Premises the usual notices "For Lease" or "For Sale" and the Tenant will permit the notices to remain without interference or interruption. The Landlord may at any time within six (6) months before the end of the Term enter the Premises and bring others at all reasonable hours for the purposes of showing the Premises to prospective tenants or purchasers.

Section 13.04 - Emergency Access

If and when for any reason an emergency will exist or be contemplated, the Landlord or its agents may enter the Premises by a master key, or may forcibly enter them, provided reasonable care is exercised, without rendering the Landlord or such agent liable, and without in any manner affecting the Tenant's obligations under this Agreement. However, despite the above, the Landlord has no obligation, responsibility or liability, for the care, maintenance or repair of the Premises except as otherwise specifically provided.

ARTICLE XIV

Section 14.01 - First Option to Renew

If:

- (a) the Tenant pays the rent as and when due and punctually observes and performs the terms, covenants and conditions to be observed and performed by it in accordance with the terms of this Agreement; and
- (b) the Tenant gives the Landlord not less than twelve (12) months and not more than eighteen (18) months written notice prior to the expiration of the Term of the Tenant's exercise of this option to renew;

then the Landlord shall grant to the Tenant a renewal lease upon the expiration of the Term for a period of five (5) years (the "First Renewal Term") on the same terms and conditions as set out in this Agreement except that:

- (a) all references to "Term" will be deemed to be references to the First Renewal Term, as applicable;
- (b) there shall be only one further right to renew; and
- (c) with respect to the First Renewal Term, the Landlord shall have no obligation to pay or provide to the Tenant any allowance, concession or inducement of any nature, or provide any free rent or discounted rent of any nature, or provide any fixturing period, or do or perform any Landlord's work in, on, to or for the Premises.

Section 14.02- Section Option to Renew

If:

- (a) the Tenant pays the rent as and when due and punctually observes and performs the terms, covenants and conditions to be observed and performed by it in accordance with the terms of this Agreement during the First Renewal Term; and
- (b) the Tenant gives the Landlord not less than twelve (12) months and not more than eighteen (18) months written notice prior to the expiration of the First Renewal Term of the Tenant's exercise of this option to renew;

then the Landlord shall grant to the Tenant a renewal lease upon the expiration of the First Renewal Term for a period of five (5) years (the "Second Renewal Term") on the same terms and conditions as set out in this Agreement except that:

- (c) all references to "Term" will be deemed to be references to the Second Renewal Term, as applicable;
- (d) there shall be no further right to renew; and
- (e) with respect to the Second Renewal Term, the Landlord shall have no obligation to pay or provide to the Tenant any allowance, concession or inducement of any nature, or provide any free rent or discounted rent of any nature, or provide any fixturing period, or do or perform any Landlord's work in, on, to or for the Premises.

ARTICLE XV

Section 15.01 - Landlord Released

In the event of the sale or lease by the Landlord of the Premises or the assignment by the Landlord of its interest in this Agreement, the Landlord will without further written agreement be released and relieved of and from such liabilities and obligations.

Section 15.02 - Tenant's Covenant

The Landlord may sell, transfer or otherwise dispose of the Premises, or any portion of the Premises, to any party and upon the conveyance to such party of the Premises or any portion of them, the Tenant will attorn to and become the Tenant of such party under the terms of this Agreement and the Tenant will provide such party with an acknowledgment in writing binding upon the Tenant that it will perform the obligations and satisfy the liabilities of the Tenant, and any indemnifier or covenantor will execute and deliver a new covenant or indemnity agreement to such party on the same terms as any existing agreement with the Landlord.

Section 15.03 - Status Statement

The Tenant will provide within three (3) days of the request of the Landlord a status statement for the Landlord, addressed to the Landlord and any potential buyer or mortgagee, binding upon the Tenant, confirming:

- (a) that the Tenant has accepted possession of the Premises;
- (b) (whether or not the Landlord has carried out all of its obligations pursuant to this Agreement;

- (c) that this Agreement constitutes the whole of the agreement between the parties (or setting out such other agreements);
- (d) that this Agreement is in full force and effect and that there are no defences or set offs which the Tenant claims against the Landlord (or setting out any such claims); and
- (e) such other matters as may be reasonably required by the Landlord or any potential or actual purchaser of the Premises.

ARTICLE XVI

Section 16.01 - Delivery of Notices

Any notice required to be given hereunder must be in writing and the sender must deliver it by hand or by fax or by mail to the party to which it is to be given, as follows:

- (a) to the Tenant:

<Name>

<address>

Attention: <>

and

- (b) to the Landlord:

City of Vancouver

c/o Director of Real Estate Services

453 West 12th Avenue

Vancouver, British Columbia

V5Y 1V4

Attention: Non-Profit Negotiator

Fax: 604-873-7064

or to such other address or fax number as the party may designate and will be deemed to have been received on the day of delivery or faxing if within business hours on a business day and otherwise on the next succeeding business day and, if mailed, the fifth (5th) day after mailing, provided that if there is between the time of mailing and the actual receipt of the notice a mail strike, slow-down or other labour dispute which might affect delivery of such notice then such notice shall only be effective if actually delivered.

Section 16.02 - Administration of Lease

Where this Agreement requires or permits on the part of the Landlord any authority, reservation, discretion, disallowance, approval or other act of supervision or the giving of any notice, such act or action shall be well and truly performed on the part of the Landlord when performed by the Landlord's Manager of Real Estate Services or his nominee.

Section 16.03 - Covenants Survive Termination

The covenants herein on the part of the Landlord and the Tenant which, as of termination of this Agreement or the Term whether by passage of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary.

Section 16.04 - Time is of the Essence

Time shall be of the essence of this Agreement, save as herein otherwise specified.

Section 16.05 - Captions and Headings

The captions and headings throughout this Agreement are for convenience and reference only and the words and phrases contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Agreement nor in any way affect this Agreement.

Section 16.06 - Interpretation

Words herein importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females or corporations as well as males, and the converse whenever the context requires; these presents shall extend to, be binding upon and enure to the benefit of the Landlord and the Tenant and the successors and assigns of the Landlord and the heirs, executors, administrators, successors and permitted assigns of the Tenant.

Section 16.07 - Joint and Several

Any covenant, agreement, condition or proviso made by two (2) or more persons shall be construed as several as well as joint.

Section 16.08 - Waiver

No waiver of or neglect to enforce this Agreement upon a default by the Tenant will be deemed to be a waiver of any such right upon any subsequent similar default. Without limiting the generality of this Section 16.08, the acceptance by the Landlord of part payment of any sums, including rent, required to be paid under this Agreement will not constitute a waiver or release of the Landlord's right to payment in full of such sums.

Section 16.09 - Entire Agreement

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, terms or conditions expressed or implied relating to this Agreement or the Premises except as expressly set out in this Agreement, and that this Agreement may not be modified except by an agreement in writing executed by both the Landlord and the Tenant.

Section 16.10 - Governing Law

This Agreement will be governed by and interpreted in accordance with the laws of British Columbia and the parties irrevocably attorn to the jurisdiction of the courts of British Columbia.

Section 16.11 - Severability

If any provision or provisions of this Agreement are determined by a court to be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and the remaining provisions of this Agreement shall remain in full force and be binding upon the parties.

Section 16.12 - Relationship between Landlord and Tenant

Nothing contained in this Agreement nor any acts of the Landlord or the Tenant will be deemed to create any relationship between the Landlord and the Tenant other than the relationship of landlord and tenant.

Section 16.13 - Force Majeure

Despite anything contained in this Agreement to the contrary, if the Landlord or the Tenant is, in good faith, delayed or prevented from doing anything required by this Agreement because of a strike, labour trouble, inability to get materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or any other similar reason, that is not the fault of the party delayed or of its officers, employees or agents, the doing of the thing is excused for the period of the delay and the party delayed will promptly do what was delayed or prevented within the appropriate period after the delay. The preceding sentence does not excuse the Tenant from payment of rent or the Landlord from payment of amounts, if any, that it is required to pay, in the amounts and at the time specified in this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

by its authorized signatory:

Signature

Print Name and Title

<👤 If Tenant executing not under seal but is a Company.>

[NAME OF TENANT]

by its authorized signatories:


Signature

Print Name and Title

Signature

Print Name and Title

Approved by resolution of Vancouver City Council on _____

This is the signatory page of a Lease between the **City of Vancouver**, as Landlord, and , as Tenant, concerning Marpole Place (the Premises) at 1305 West 70th Avenue, Vancouver, British Columbia.

SCHEDULE A
PLAN OF PREMISES

**SCHEDULE B
SERVICE LEVEL AGREEMENT**

For purposes of this document, the parties are identified as follows:

Social Facility Operator
City of Vancouver

NPO
CoV

Generally, the City of Vancouver will pay for the maintenance of the base building systems serving the leased premises that relate to building systems and structures. The tenant will be responsible for repairs, maintenance and replacement of the building systems within the leased premises, including janitorial, utilities, pest control, and security services.

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
1.1	Base Building Heating, Ventilation and Air Conditioning		
a	- annual inspection	CoV	CoV
b	- routine maintenance and repair	CoV	CoV
c	- provision & replacement of filter material	CoV	CoV
d	- cleaning of ducts	CoV	CoV
e	- life cycle replacement (Capital	CoV	CoV
f	- operating costs	NPO	NPO
2.1	Base Building Plumbing Systems		
a	-preventive maintenance and repairs to hot water heating systems and domestic cold water systems	CoV	CoV
b	- major repairs and replacement of hot water heating systems and domestic cold water systems	CoV	CoV

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
c	- repairs to all fixtures including faucets, unplugging toilets and all other routine repairs	NPO	NPO
d	- life cycle replacement of hot water systems, fixtures, (including all sinks and toilets) and piping	CoV	CoV
e	- maintenance and replacement of sump pumps	CoV	CoV
3.1	Mechanical Systems (including elevators)		
a	- preventive maintenance and repairs	CoV	CoV
b	- life cycle replacement	CoV	CoV
c	- installation, maintenance and replacement of additional equipment provided and installed by the tenant	NPO	NPO
4.1	Fire Protection & Suppression		
a	- monthly inspection of fire extinguishers and smoke detectors within the premises	NPO	NPO
b	- annual inspection of fire extinguishers and smoke detectors within the premises	CoV	NPO
c	- repairs/recharging of fire extinguishers within premises	CoV	NPO

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
d	- life cycle replacement of fire extinguishers within premises	CoV	NPO
e	- monthly inspection of the fire alarm system; maintenance, repairs and life-cycle replacement	CoV	CoV
f	- annual inspection (or more frequently as required) of fire sprinkler system; maintenance, repairs and life-cycle replacement	CoV	CoV
5.1	Security Systems		
a	- system monitoring, inspection, maintenance and repair	NPO	NPO
b	- life cycle replacement	NPO	NPO
c	- repair, replacement, re-keying of all locks and fobs	NPO	NPO
6.1	Electrical Distribution Systems		
a	- repairs and upgrades required by Code or initiated by the landlord	NPO	NPO
b	- inspection, maintenance and repair of wiring, breakers and electrical panels	COV	NPO
c	- life cycle replacement of wiring, breakers and panels	COV	COV
d	- repair or replacement of switches, receptacles, cover plates	NPO	NPO

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
7.1	Lighting Systems		
a	- bulb/tube replacement for interior lighting	NPO	NPO
b	- interior lighting ballast replacement	NPO	NPO
c	- annual inspection and maintenance of interior emergency/exit lighting	CoV	NPO
d	- life cycle replacement of interior fixtures	CoV	NPO
e	- maintenance and repair of exterior lighting	NPO	NPO
f	- life cycle replacement of exterior lighting	CoV	NPO
g	- cleaning of interior light fixtures	NPO	NPO
h	- provision, maintenance, repair and replacement of portable lighting fixtures	NPO	NPO
8.1	Interior Windows		
a	- breakage and replacement of interior windows, caused by the tenant or operations	NPO	NPO
b	- routine repairs and cleaning of interior windows	NPO	NPO
c	- replacement due to normal wear and tear	NPO	NPO
8.2	Exterior Windows		

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
a	- breakage, routine repairs and replacement of exterior windows or canopy, not caused by the tenant or operations	CoV	CoV
b	- breakage, routine repairs and replacement of exterior windows or canopy, caused by the tenant or operations	CoV	NPO
c	- cleaning of interior surfaces of exterior windows	NPO	NPO
d	-cleaning of exterior surfaces of exterior windows	CoV	NPO
e	- life cycle replacement of the exterior windows	CoV	CoV
9.1	Interior and Exterior Doors		
a	- maintenance and repair of interior doors	NPO	NPO
b	- life cycle replacement of interior doors	NPO	NPO
c	- maintenance and repair of exterior doors	CoV	CoV
d	- life cycle replacement of exterior doors	CoV	CoV
10.1	Interior Surfaces		
a	- interior life cycle repainting	NPO	NPO
b	- maintenance and cleaning of window applications including, but not limited to blinds and curtains	NPO	NPO

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
c	- repairs to interior walls and ceilings, including minor painting	NPO	NPO
d	- life cycle replacement of ceiling tiles	NPO	NPO
e	- interior repairs due to building system failures such as roof leaks, exterior walls and foundation leaks not caused by the tenant or operations	CoV	CoV
f	- maintenance and repairs of floor coverings, including carpet and tile	NPO	NPO
g	- life cycle replacement of floor coverings	NPO	NPO
h	- maintenance and repair of millwork	NPO	NPO
i	- life cycle replacement of millwork	NPO	NPO
11.1	Major Structural Systems		
a	- maintenance and repairs of foundations, flooring sub-structure, building envelope including bearing walls, glass canopy/awning and roofing, and parking lots due to damage related to the tenancy	CoV	NPO
b	- repairs or replacements of foundations, flooring sub-structure, building envelope including bearing walls, roofing and parkade	CoV	CoV
c	- repairs and painting of exterior surfaces including windows, trim, fascia and soffits	CoV	CoV
d	- exterior life-cycle repainting	CoV	CoV

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
e	- cleaning of eaves troughs and gutters	NPO	NPO
f	- cleaning of roof drains and roof areas	NPO	NPO
12.1	Site Services		
a	- snow and ice removal from steps, walkways, entrances including the provision of de-icing materials	NPO	NPO
b	- snow and ice removal from roof areas, canopies and/or awnings (if applicable)	CoV	CoV
c	- snow and ice removal from entrance to parking areas	NPO	NPO
d	-graffiti removal	CoV	NPO
e	- landscaping repairs and maintenance	NPO	NPO
f	- grass cutting	NPO	NPO
g	- general cleaning of grounds, litter disposal	NPO	NPO
h	- repairs of water and sewage systems (beyond the building perimeter), unless deemed to be caused by the Tenant	CoV	CoV
i	- maintenance, repair and replacement of gates and fences	CoV	CoV
j	- maintenance and repair of parking and loading areas	CoV	CoV

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
13.1	Interior Signage		
a	- maintenance, repair and replacement of interior signage	NPO	NPO
13.2	Exterior Signage		
a	- maintenance, repair, and replacement (subject to prior approval of the CoV)	NPO	NPO
14.1	Play Area and Equipment	N/A	N/A
15.1	Janitorial Services within the leased premises		
a	- routine janitorial/custodial services	NPO	NPO
b	- pest control services	NPO	NPO
c	- provision of all washroom supplies	NPO	NPO
d	- garbage and recycling removal services	NPO	NPO
16.1	Appliances, Program and Other Non-Installed Equipment		
a	- inspection, maintenance and repair of all non-building equipment including stoves, refrigerators, microwaves, coolers, free standing cabinets, track lighting	NPO	NPO

Item	Description	Party to Perform the Work	Party Responsible to Pay for Work
b	- replacement of all appliances, program and non-installed equipment	NPO	NPO
c	- maintenance, repair and replacement of furniture	NPO	NPO
17.1	Renovations and Upgrades within the leased premises		
a	- any upgrades, additions, enhancements or improvements undertaken by the tenant beyond what was originally provided during construction (subject to prior approval by CoV)	NPO	NPO
18.1	Utilities		
a	- electricity	NPO	NPO
b	- gas	NPO	NPO
c	- water and sewer	NPO	NPO
d	- all other municipal utilities charges which appear on the property tax notice	NPO	NPO
19.1	Business Operations		
a	- staff costs	NPO	NPO
b	- telephone, internet & cable services	NPO	NPO
c	- insurance (CGL, business interruption, contents, TLL etc.)	NPO	NPO
d	- supplies and equipment, including for bathroom and kitchen	NPO	NPO
e	- security services	NPO	NPO

Life Cycle Replacement

Life cycle replacement is based on fair wear and tear. The need of such replacement is at the Landlord's sole discretion.

Damage

Notwithstanding the foregoing, it is a condition hereof that the Landlord's obligation to maintain, repair, and replace parts of the Premises as indicated above is always subject to the availability of funds currently budgeted by the Landlord for such purposes at the Premises.

**SCHEDULE C
OCCASIONAL THIRD PARTY USE POLICY**

This Occasional Third Party Use Policy (the “Policy”) forms part of the Agreement made as of _____, 20____ between the CITY OF VANCOUVER, as the Landlord, and _____, as the Tenant.

1. Purpose of Policy

The purpose of this Policy is to provide for occasional use of the Premises by third parties at various times in order to generate earned revenues which will assist the Tenant in supporting its operations.

2. Amendments

This Policy shall not be amended unless the Landlord and the Tenant agree to any amendment in writing.

3. Tenant Liable for Actions of Third Parties

Without limiting anything else contained in the Agreement, the Tenant shall at all times be fully responsible for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord sustains any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord’s satisfaction and shall indemnify the Landlord for any loss it might sustain due in whole or in part to such actions.

The Tenant shall ensure that the Tenant’s insurance is adequate to protect the Tenant for the actions of third parties.

4. Use by Third Parties

Any use by third parties of all or any portion of the Premises shall:

- (a) not be a subletting but shall only be a license to use on the terms set out in the Rental Agreement (hereinafter defined);
- (b) be appropriate to and support and not detract from the Tenant’s Mandate and Public Service Objectives; and
- (c) be no longer than sixty (60) consecutive days, except with the prior approval of the Landlord, not to be unreasonably withheld except that the Landlord may arbitrarily withhold consent if the use is to be longer than one hundred and twenty (120) consecutive days.

5. Rental Agreement

Before the Tenant permits a third party to use all or any portion of the Premises, the Tenant shall enter into a written agreement with the third party (the “Rental Agreement”).

At a minimum the Rental Agreement shall contain the following information and requirements:

- (a) the full and correct legal name, address, contact name and telephone number of the third party;
- (b) identification of which area(s) of the Premises is/are to be used by the third party;
- (c) the purpose for which the area(a) is/are to be used by the third party;
- (d) the amount of the fee being paid by the third party including the amount of the deposit, if any;
- (e) the duration of the Rental Agreement;
- (f) proposed additional janitorial and security arrangements if such additional arrangements seem reasonably necessary in view of the proposed use; and
- (g) an obligation on the third party to comply with all federal, provincial or civic statutes, by-laws, regulations and orders in force at the time of execution of the Rental Agreement or thereafter relating to the Premises and the third party's use of the Premises.

6. No Occupation by Third Party Until Certain Conditions Met

The Tenant shall not permit any third party to occupy all or any portion of the Premises unless:

- (a) the third party has executed the Rental Agreement; and
- (b) the third party has satisfied all the preconditions set out in the Rental Agreement.

7. Policy Part of Agreement

As this Policy forms part of the Agreement, default by the Tenant in its obligations enumerated in this Policy is default under the Agreement.

**SCHEDULE D
TENANT'S MANDATE AND PUBLIC SERVICE OBJECTIVES**

This Schedule D forms part of the Agreement made as of _____, 20____, between the CITY OF VANCOUVER, as the Landlord and _____, as the Tenant.

Amendments

This Schedule D shall not be amended unless the Landlord and the Tenant agree to any amendment in writing.

1. The Tenant's Mission and Mandate

Attached to this Schedule D as Appendix A is a copy of the Tenant's Mission and Mandate prepared by the Tenant which is incorporated into and forms part of this Schedule D.

2. Information about the Premises

The following information applies to the Premises: (Please describe how you intend to achieve the City's objectives as set out in the Request for Proposals PS20150078, and how you will measure your success in achieving these objectives. If space is insufficient attach additional sheets.)

(a) the Premises typical hours of operation: _____

(b) the type and range of programs offered at the Premises: _____

(c) financial accountability is demonstrated by: _____

(d) regarding quality, the Tenant's commitment to continuous quality in its programs and procedures is demonstrated by: _____

(e) regarding affordability, the Tenant's commitment to affordability in its programs and procedures is demonstrated by: _____

(f) regarding accessibility, the Tenant's commitment to accessibility in its programs and procedures is demonstrated by: _____

(g) identify challenges and trends you foresee, and provide your plans for addressing these: _____

3. **Provision of Updated Information**

The Tenant will provide the Landlord with updates of the information requested in Section 2 and Section 3 of this Schedule D as and when requested by the Landlord.

4. **Schedule Part of the Agreement**

This Schedule D forms part of the Agreement. Any default by the Tenant in its obligations under this Schedule D will be a default under the Agreement.